

Innovations in Election Administration 17

**Acquiring
Election
Systems and
Equipment**



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This report is another in the series on *Innovations in Election Administration* being published by the FEC's Office of Election Administration.

The purpose of this series is to acquaint State and local election officials with innovative election procedures and technologies that have been successfully implemented by their colleagues around the country.

Our reports on these innovations do not necessarily constitute an endorsement by the Federal Election Commission either of any specific procedures described or of any vendors, suppliers, or products that might be identified in the report. Moreover, the views and opinions expressed in these reports are those of the author and are not necessarily shared by the Federal Election Commission or any division thereof.

We welcome your comments on these reports as well as any suggestions you may have for future topics. You may mail these to us at:

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My thanks also go to Penelope Bonsall and Bill Kimberling at the Office of Election Administration who conceived the project and directed its development. One could not ask for wiser guidance.

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Introduction

Acquiring computer-dependent equipment and systems is a major responsibility of election officials. Because these investments involve substantial sums of public money, and because the consequences of the choice are likely to last a decade or more, the acquisition decision must be made wisely and carefully.

In recent decades and still, these acquisitions are most commonly voting systems. The votes of well over half the American electorate are cast on and counted by computer-based systems. That fraction grows with every election, as the mechanical machines — which have not been manufactured since the early 1970s — and paper ballots give way to their electronic successors, and as earlier electronic systems are substantially enhanced or replaced by newer technology.

Usually, the selection and funding for voting systems are a local obligation, although the State authority sets standards, imposes constraints, and may provide support. However, in a few instances — Oklahoma, Louisiana, Delaware, Hawaii, Alaska, Rhode Island — the State selects and pays for the system, maintains it, and directs its use.

This publication offers guidance for election officials considering voting system acquisitions. Too often these important decisions are

made by persons unclear on their needs, unfamiliar with the options, and generally unprepared for the decision. As a result, they can be and have been unduly swayed by aggressive sales representatives, by everyday hearsay, or by choices made by election officials in other jurisdictions with different circumstances. Decisions based on such a superficial analysis can be costly both to the election office and to the electorate.

A systematic approach to acquiring election systems employs recognized planning and management techniques and applies them to the election environment. These steps include:

- Define the problem(s) with the current system and the options for solving the problem(s). If acquiring a new system is justified, establish the criteria for a replacement system. (This constitutes what is often called “needs analysis”)
- Plan for acquiring a system (or enhancing the one you have)
- Solicit bids or proposals from vendors
- Evaluate the offers
- Select the system or enhancement
- Contract for and Accept the system.

While this guidebook focuses primarily on the procurement of voting systems, the same principles and practices could be — and have been — applied to the acquisition of other computerized systems used in election administration: voter registration and file maintenance; candidacy and campaign finance; a comprehensive election management system in which a number of election functions are integrated; or substantial enhancements of existing systems.

Step 1: Problem Definition and Needs Analysis

Rational decision-making begins with defining the problem for which the acquisition of new equipment is seen as a possible solution. This step includes:

- Defining the problems you have with your current system
- Developing a Statement of Need, and
- Developing the Specifications you want for a new or enhanced system.

Defining the Problems

The problems most frequently cited as reasons for acquiring new systems will be familiar to experienced election officials. For each problem, there are questions to be asked and answered in order to fully define its nature and dimension. Only then is it possible to demonstrate that acquiring a new voting system (or enhancing the one you have) will solve the problem, and to establish criteria for a replacement or modified system.

Problem 1. The population is growing and more voting equipment will be required to service the enlarged electorate.

If population growth is inevitable, it follows that there will be growth in the voter registry

and in all the component systems of election administration. There will be more voters, more polling places, more voting devices, more voting booths, more ballots to print.

The fact and dimension of population growth have to be documented. State and local government planning departments can supply population projections; from these, election needs for the coming years can be accurately estimated.

Should additional voting equipment of the current type be acquired, or should the jurisdiction convert to a different system? Are we satisfied with the performance of the current system, and with the support services from the vendor? Is it certified for use in the State? Is it still marketed?

Problem 2. Doubts about the accuracy and reliability of the current voting system.

This complaint was reported by jurisdictions that use mechanical lever machines or that still manually count paper ballots. The doubts are understandable. Some think of these systems as archaic. In manual tallying of paper ballots it is hard to avoid error. The lever machine produces no record of each voter's

ballot making it impossible to reconstruct and audit the election, and replacement parts are hard to obtain. Accordingly, many jurisdictions have seen these problems as reason enough to convert to a computer-based system.

However, in small communities a manual count by a well-trained staff can be reliable, and the mechanical machine, properly managed, still produces accurate results in many localities, some of them large. Even so, some communities may be willing to pay the price for and have the benefits of a computer-based system.

Problem 3. As now equipped, we cannot comply with State or federal requirements.

Usually this means new laws, regulations, directives, standards or a court decision. Compliance is obligatory, and it may involve purchase of a new voting system.

In the early 90's, a new Florida law required that after 1992 any voting system purchased and used in the State must be certified by the Secretary of State. Orange County, large and fast growing, was faced with the need to acquire additional voting equipment. Their current system, no longer on the market, had been purchased before the State certified systems. They decided to acquire a replacement voting system which either was already certified or which could pass muster for certification.

Other changes which could necessitate voting system changes are requirements for multilingual ballots, ballot rotation, cumulative voting, or a consolidation of elections which increases the length of the ballot.

To demonstrate the validity of the need for new equipment, the election agency should explain *why* compliance is impossible with current resources.

Problem 4. Long waiting time for voting at the polls. This problem can give rise to widespread complaints from citizens, and arguably discourages participation in elections.

To validate the claim, obtain personal observation reports on waiting time in a sample of the polling places during peak voting hours in a high turnout election, preferably when the ballot is long. This information will reflect the worst possible scenario. If poll workers cannot produce these reports, enlist citizen volunteers.

What is the length of the wait? Where is the bottleneck in traffic flow through the polling place? At the table where the voter checks in and is qualified by the poll worker? Could an additional check-in station be provided? Could the process be simplified? Is the waiting line at the voting booth? If so, additional voting stations may be the only solution. If the voting booth in your system is the voting machine itself, that will mean more machines or conversion to a different system.

Problem 5. Delays in counting and reporting the vote.

Throughout the country, the pressure to count and report the vote quickly is loud and clear. It comes primarily from the news media responding to the public's eagerness to know who won, but also from candidates wanting to know their fate. Computer-based voting systems that incorporate certain features now make it possible to get results very soon after the polls close, and to report the election outcome on the late evening news.

The speed of counting and reporting varies according to the following factors. If one or more is identified, can it be eliminated or minimized?

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- Is there a line of people still waiting to vote at closing hour, who must be served before the totals can be produced?
 - Are votes tabulated and reported at the precinct? Are these results on electronic medium (memory pack, diskette, or other data storage device)? Or must poll workers open machines, copy totals on a report form, and add them manually?
 - If the system is a central count, do the ballots leave the polls immediately after the polls close? Have you considered a mid-day pick-up of ballots cast during the first half of the day, transporting them to the counting center where they can be tabulated and results held and added to when ballots from afternoon voting come in for tabulation after the polls close?

Problem 6. The current system cannot accommodate persons with special needs—the frail and elderly, the disabled, and those whose language skills are limited.

It's not possible to guarantee that that all such persons can vote unassisted. However, there are accommodations that can be made to assure the greatest possible satisfaction of their special needs.

Do you provide guidance for poll workers in coping with these situations? If a substantial fraction of the precinct's voters needs special support, as could occur if there are large numbers of elderly in the neighborhood, can the poll worker complement be augmented with a person specifically designated and trained to give this assistance? For voters in wheelchairs, or others who cannot stand, can a voting station be set up on a table, or otherwise made accessible for one who is seated?

Problem 7. The voting system used for absentee voters is different from that used in the polling place.

When the voting device in the polling place is a voting machine, lever or direct recording electronic (DRE), some kind of document ballot must be used for mailing to absentee voters and for provisional or challenged ballots. Jurisdictions that cite this problem complain about the doubled administrative load and the cost of printing two types of ballots. In addition, the merging of votes cast on the machines with those cast on document ballots sometimes delays production of final returns.

Mostly, this problem is reported by jurisdictions that use mechanical lever machines. Conversion to a computer-based system which uses a document ballot will solve the problem, if State law permits and if your government is willing to fund the change.

Problem 8. System components, replacement parts, and knowledgeable service personnel for the current system are not readily available.

This problem is cited by users of older systems, typically lever machines and punchcard ballot systems which are no longer manufactured or marketed, and the vendor may even be out of business. The time may not be long when such deficiencies prove to be fatal flaws. As of now, however, millions of citizens — 58% of the American electorate — still cast their votes on lever machines or punchcards. The jurisdictions they live in are among the largest in the nation.

Can used machines be purchased from communities abandoning them, to serve as a source of replacement parts? Can your local person-

nel be trained to service equipment? Have you inquired of other users of the system about how they meet these needs?

Some of the foregoing are significant and compelling problems, and justify acquiring a replacement system. Others are less significant and by no means compelling, and yet may be deemed by some local government authorities as sufficient reason for converting to a different system.

Developing a Statement of Need

Having identified the problem or problems that are best solved by converting to a new voting system, continue the needs analysis by specifying precisely what you want in the new system — a Statement of Need.

Start by writing a complete description of the current system. Describe all its features, beginning with ballot design and layout and continuing through the final printing of election results. Identify those features which you like and wish to retain and those features which should be improved upon. Identify also features you never have had but want as part of the new system. Finish the statement by describing the reasons you wish to replace the current system — drawn from the problem definition.

Developing System Specifications

Complete the needs analysis by writing a system specification — a description of what you want in the new system.

Before enumerating the particular features you want, you will have to address some general questions:

- Does State law contain requirements for voting systems? What are they?
- Does the State require that a system be certified for use? Which systems are certified or can be certified?
- Do you want to limit your search to systems which comply with the Federal Election Commission voting system standards as confirmed by the approval of an independent testing authority?
- Do you want a system using a document ballot for each voter at the polling place, or a system on which the voter records his vote directly on a voting machine, or would you consider both?
- Do you want a precinct count or a central count, or would you consider both?
- Do you want to purchase the system, or lease it, or would you consider both?
- Would you also consider a “full service” contract — under which the vendor supplies almost everything you need in your voting system including hardware and software; program coding; equipment maintenance, storage, and delivery; ballot production; voting booths; etc.? (The advantages of the full service arrangement, which is increasingly popular, are that your government does not have to make the large up-front capital outlay for hardware and software; that you deal with only one vendor for all your election needs; that you do not have to worry about storage, maintenance and hauling of equipment; and that you are relieved of certain complex operational responsibilities — ballot design and layout; program coding for vote-tallying and tabulation. The disadvantages are that the method is likely to be more costly in the long run because ballot production, a large and repetitive line item in the operational budget, cannot be com-

petitively bid, and certain sensitive responsibilities of election administration are performed by people who are not election officials).

- The completed needs analysis will be the basis for justifying acquisition of a new system, and its findings and conclusions will be incorporated into the solicitation you issue to vendors.



Step 2: Planning for Acquisition

Developing a plan for acquiring equipment starts with defining the limits within which you must work. This is also aptly called “constraints analysis”. It is helpful in limiting the scope of the project and eliminating any aspect of it that would be altogether unrealistic. A successful constraints analysis considers the legal requirements, equipment eligibility and availability, funding and scheduling.

Legal Requirements

Legal requirements are in State laws and regulations. As the first step in planning, a comprehensive memorandum on the legal provisions governing the acquisition of voting systems which apply to your jurisdiction should be prepared by the election agency’s legal counsel, or an attorney from another agency in your government.

There is great variation in the election codes of the States relating to the acquisition of voting systems. Most require approval or certification by the State election authority (usually grandfathering systems in use when the certification was instituted). In some instances technical advisors participate in the approval process. In recent years, many States have amended their statutes to require that a sys-

tem authorized for use must comply with the Federal Election Commission’s voting systems standards, as attested to by an independent testing authority accredited by the National Association of State Election Directors. Again, States often grandfather the systems already in use before this became a requirement, but new systems or significant changes to current systems may be required to meet the FEC standards.

Commonly the State code also:

- includes general requirements for a voting system (e.g. ballot secrecy, overvote protection, or (in some States, the ability to cast a straight party ballot)
- identifies the governmental authority authorized to decide on and fund acquisition, and
- grants permission to issue bonds for the purchase.

The election codes of New York, Ohio, Pennsylvania, Texas, Washington, and West Virginia all contain clear and comprehensive provisions for acquiring voting systems.

Some States are quite specific in their law. Massachusetts requires that the vendor of “. . . marking units or tabulating units . . .”

of an electronic voting system acquired by a local government must agree “. . . to keep such units in working order for at least two calendar years from the date of lease or purchase . . .” and must provide a bond to assure that such maintenance will be performed; New Hampshire law contains a similar provision. In Illinois, public notice in the newspaper two months prior to the first use of a new voting system is a code requirement. Montana’s election law requires that “. . . a guarantee to provide training and assistance to election officials is included in each contract for purchase . . .” of voting equipment, and Washington bans the purchase or lease of a voting system unless it has been used in at least one other State or jurisdiction. In a few States, the decision to acquire a particular type of system must be approved in a referendum of the affected electorate.

Regulations governing the acquisition of voting systems by local election agencies are rare. New York is one exception. Its regulations flesh out the corresponding code provisions. The State Board of Elections is given broad authority to oversee all aspects of the acquisition process by the county election boards — including the review and approval of contracts, and the periodic review and evaluation of equipment maintenance.

Equipment Eligibility and Availability

Your choice of a voting system must be made from those certified by your State election authority and currently on the market in your area. Obtain the list of approved systems from your State authority, and a list of voting systems vendors from the Federal Election Commission’s Office of Election Administration (OEA).

If you haven’t already started to do so, begin now to familiarize yourself with the approved systems for your State and with new voting systems in general. The OEA can provide you with a number of reports relating to voting systems, and can also refer you to studies published by other entities. When word gets around that you are considering a new system, vendors will contact you, and supply you with promotional materials about their wares. At meetings of election organizations, State and national, vendors show and demonstrate their equipment. See all you can, and ask questions.

Visit other communities where systems are in use and get the benefit of their experience. Ask to come on election day when you will see actual performance rather than a demonstration or description. Also, come back to see these users at a less pressured time when they can candidly discuss with you their experience with the system and the vendor, and help you identify and cost the major line items in the operational budget. Finally, ask what problems they had in implementation and how they solved them.

A publication of the Office of the Secretary of State in Georgia, intended as an assistance tool for the local officials in the State who are selecting a new voting system, contains this sage advice:

There are two ways to determine if any of the available systems can meet your needs: ask the vendors and ask your neighbors. As soon as the vendors find out that you are considering a procurement, they will begin to call on you. Be open, but, of course, noncommittal. Tell them what you are doing, show them your list [of problems] and invite them to comment about how their systems would

solve your problems. However, the best source of information about existing systems is your neighbors.

Make a list, on paper or mentally, of the counties that are similar to your county in size, population, growth rate, political structure, etc. Call or visit these counties to find out what system they are using, how happy they are with the system, and how well the vendor(s) support these systems. Be sure to ask about support vendors as well as the primary voting system vendor: who supplies their paper or card stock, who does their ballot layout, who prints their ballots, who provides training, etc. They can also provide you with some general price guidelines.

The better backgrounded you are, the better equipped you will be to make a wise selection.

Funding commitment

Your local government has to support the acquisition of a voting system and agree to fund it. Keep them informed from the beginning, and assure them that they will be kept abreast of progress. Let them know that you will need assistance from other agencies of government — budget, procurement, legal, information technology, public information. The method of financing the acquisition probably will be decided by some other authority, often by the governing body, from among the options available — purchase, lease-purchase, rent with full service, bonding.

Don't ignore the time factor. What is the budget schedule? If a purchase is to be financed by bond issue, how long will that take? Must the bond issue be approved by referen-

dum? How long will it take to go through the sequence of steps from analyzing needs and soliciting offers to actual use in the first election?

The presentation to your local government should include a succinct summary of your needs analysis, with problems of the current system identified and how they can be resolved by system conversion, the constraints imposed by State law and regulations, and your plan for acquisition. This sets the stage for your next request — funding.

You can't expect to gain approval for a project of this importance and dimension without defining the fiscal impact. Even if State law or some other factor compels a conversion, your local government will have to pay the bill and must know what it will cost. At this point you should begin to construct a cost-benefit analysis, which will be refined and completed as you move close to selection.

You can't give a detailed comparative cost analysis at this time; that will come when bids or proposals are received and final selection is made. But to support the request for an early commitment, you should have a good grasp, in detail, of what your current system costs are and a general idea of what a replacement system would cost. Consider certain basic factors that will affect cost: Voting machines are expensive to purchase, store and to haul; on the other hand, any of the systems that use a document ballot (punchcard, optical scan) involve big ballot production costs. Are you committed to government ownership of the system, or would you consider a rental of the system, or perhaps even a full service rental arrangement?

Scheduling

With the framework of the project defined and support assured, a schedule or workplan for acquisition should be constructed, from this point through solicitation, evaluation, selection, contracting and acceptance. All tasks to be performed and steps to be taken should be itemized, so that it is possible to comprehend how the effort will proceed. Responsibility for each task should be assigned so that those responsible can be held accountable. The plan should establish frequent milestones so that when there is slippage it will be apparent and adjustments can be made to get the process back on track.

The final step in planning is to assure that you have assembled the requisite expertise to make the judgments necessary for successful acquisition.

Some jurisdictions create a selection committee. The chief election official chairs the committee and other members may come from other agencies of government, and also from outside government. In truth, you will use a selection committee whether or not you formalize the structure. You're not going to do this job alone.

In Orange County, Florida, the Supervisor of Elections asked the County Commission to establish a Voting Equipment Review Committee. They did so, appointing the Supervisor, a county judge, and one of the Commissioners. The County Attorney and the Purchasing Department provided support throughout the process, and negotiated the sole-source contract once the selection was made.

At the suggestion of the Election Commissioner of Sedgwick County, Kansas, the Board of County Commissioners established a task

force to study the feasibility of new voting equipment. Interests represented in the group included County Commissioners; County Manager; election office staff; Department of Information Services; political parties; unions; media; the university Department of Urban Studies; disabled, elderly, and minority communities; elected officials; poll workers; League of Women Voters.

In Clark County, Nevada, the County Manager formed the Election Equipment Selection and Procurement Task Force “. . . to assess the need for a new voting system and to make a recommendation to the Board of County Commissioners as to what direction the County should take in selecting a voting system.” Members of the Task Force included the Registrar of Voters and representatives of other county departments — Information Systems, Finance, General Services, Audit.

A selection committee, or advisory committee, contributes expertise in specific relevant areas, and broadens the base for discussion when you make the decisions that cumulatively will determine your final selection. Members can also advocate your cause when you present a contract to the funding authority for approval. Don't hesitate to identify and exploit the talents you assemble.

Bring the committee into your project as soon as it is formed. Members should be familiar with and briefed on the needs analysis you performed, and involved in all steps of acquisition which follow, starting with system specifications and the schedule. The chief election official will direct and manage the project and election agency personnel will do most of the work. Specialist members will participate where their expertise is required. The full committee should be convened periodically for discussion and decision-making.

Selection committees in some communities have held public hearings at appropriate junctures, thus keeping the media and general public informed and assuring understanding and acceptance of the new system when it is introduced. Call on your government's public information office for advice and assistance in planning and setting up these sessions.



Step 3: Solicitation

The solicitation to vendors describes and itemizes the goods and services and the voting system features you seek.

To produce a good solicitation, it is essential — before doing anything else — to involve the procurement officials of your government for assistance in developing the document and in reviewing and approving the final draft. They will advise you on your government's requirements and practices for an acquisition of this type. They will also protect the public interest and your interest.

Methods of Solicitation

There are several types of procurement requests with some overlap among them. In your local government a particular method may be called by a name other than the one used here. Moreover, these descriptions are not meant to be taken literally. Use them for guidance, and depend on your procurement professionals to advise you on the process to be used and on the specifics of the solicitation document.

An **Invitation to Bid** (ITB) or Request for Bid is the solicitation of bids for goods and services that meet specifications contained in the invitation. The contract is awarded to the lowest responsible and responsive bidder, at the price quoted in the submission.

An ITB requires detailed specifications, which assure accurate offerings that fit the purchaser's needs and also provide a common basis for evaluating the bids submitted. This method is used when you know exactly what you want and that there are at least two sources capable of meeting your requirements, or at least your mandatory requirements.

The more common method of competitive procurement is a negotiated procurement, or **Request for Proposal** (RFP). In this process, you state your needs and invite vendors to propose how they would meet them. Indicate what features you want in the system, which are mandatory and which desirable. The process allows discussion and negotiation with those firms found to be in the competitive range. Initial prices may be modified during the negotiation phase.

Negotiated procurements have the same objective as formal bidding — through competition, to get maximum satisfaction for the lowest possible price. The award is not limited to price alone, but considers other critical factors as well. If requirements are not precisely defined, there is latitude for the responder to give options or suggestions. In writing such a proposal, the language used should not be unduly restrictive.

Finally, there are times when **Sole Source** procurement best serves the jurisdiction's interest. Perhaps it is because only one available system meets your needs; because only one vendor can meet your delivery requirement; or because a particular system is compatible with other systems already in place. In such instances, the particulars of the procurement are arrived at by negotiation. All governments have rules applicable to sole source procurement, and again your procurement specialists will guide you through the process.

In these circumstances, to assure that the election agency will obtain a system of high quality, at a price no higher than justified, it is important that the preparation work be as diligent and carefully done as for competitive acquisition. It will include the needs analysis, specifications, constraints analysis, and acquisition schedule. Moreover, the same specialized expertise will be required — procurement, legal, budget, information technology. A selection committee involving these persons and possibly also general public representatives should track the process from needs analysis through contracting and acceptance.

Content of the Solicitation

In general, the solicitation must meet two requirements: (1) It must comply with your government's legal provisions relating to procurement, and (2) it must accurately present your needs and what you seek. All else that follows is but a means to achieve those purposes. The document you produce and address to prospective vendors should state, explicitly and completely, what you want and what are the conditions for the acquisition. Unless you accurately define your needs in your request, you will be unlikely to receive responses that

satisfy you. Among the things that the solicitation should address are:

1. Provisions relating to acquisitions in general.

Often called "boilerplate", they reflect standards set in law and regulation, as well as the practices of your government. The procurement specialists can supply these to you; they often are detailed and voluminous

2. Provisions specific to this acquisition.

- Factual background information on your community and its election system, both current and for the estimated life of the system, including
 - Demography of community.
 - Population and number of registered voters, current and expected.
 - Number of polling places/precincts, current and expected.
 - Range of number of voters per precinct.
 - Ballot length and complexity, for all types of elections conducted.
 - Include specimens of actual ballots of maximum length and complexity; if applicable, bilingual ballots; straight party voting; cross endorsements; etc.
 - Relevant provisions of law, including such factors as ballot rotation, cumulative voting, cross endorsements, straight party voting, etc., that affect voting and vote tabulation.
- System Specifications, refined to be as specific as possible. Indicate which are mandatory, which are desirable

- The Statement of Need which you prepared earlier mandatory, which desirable.
- Other goods/services sought.
 - Documentation
 - Installation
 - Parts and accessories, including voting booths
 - Training — election office staff and poll workers
 - Maintenance and service
 - Election day support
 - Ballot design and production
 - Program coding.

3. Vendor information to be submitted

- Description of company, background and qualifications, and financial statement
- List of all States in which system is certified for use
- List of election agencies using the system, including address and contact person
- Personnel to be assigned to implementing the system

4. Schedule for Acquisition. For each, list date and, if appropriate, time and place.

- Issuance of solicitation
- Pre-bid or Pre-proposal conference
 - This practice serves to answer questions from interested vendors, to clarify and emphasize your needs, and to explain any items in the solicitation about which the attendees are unclear. Mail notice of the conference with the solicitation.

- Deadline for receipt of responses
- Personal presentation and/or demonstration by vendors
- Preliminary decision and test use in actual election
- Decision and award of contract
- Delivery schedule
- Acceptance testing
- Direct questions to: name, telephone, fax, e-mail.
- Address responses to: name, telephone, fax, e-mail.

5. Pricing and method of payment

- Purchase
- Lease/purchase
- Rental/full service

Price should include purchase price and also any continuing cost for such items as recommended maintenance, additional training not included in purchase price, additional documentation and training manuals, election setup and ballot preparation, etc.

6. Evaluation Criteria

To enable you to conduct a successful analysis of vendor submissions, criteria that identify the necessary components of the system should be developed from your Statement of Need and System Specification. The vendor will then know what you want, and you will be able to judge how well a proposal will provide what you want.

Indicate which criteria are mandatory; that way you can eliminate on the first sweep those proposals that don't meet the mandatory requirements. Let the vendor know if you plan

to consider the financial strength of the company a significant factor.

You may weight the desirable criteria, assigning to each a value which reflects its importance to you.

7. Format/Organization of Proposal or Bid

- Executive Summary
- Information about vendor
- Detailed description of goods and services to be supplied
- How the vendor proposes to maintain and repair the system
- Content of training program(s); location.
- Delivery
- Pricing

Issuing the Solicitation

First, consult your procurement specialist. Your government may have standards for advertising ITBs and RFPs.

Mail your solicitation to eligible vendors on the list supplied by the Federal Election Commission's Office of Election Administration, to any who have contacted you and asked to be included, and to any others you believe to be eligible.

You may also advertise the issuance of the solicitation in trade journals or newspapers, and send an announcement to the various organizations serving the election craft. Make the ad sufficiently specific so that only serious vendors request the solicitation.

Maintain a list of all vendors to whom the solicitation was sent.

Hold the Pre-Bid or Pre-Proposal conference for interested vendors. The procurement specialist and other technical personnel should be present, along with the chief election official, to respond to questions.

After you receive responses, proceed to the next step, evaluating the proposals and deciding which is best for you.

Step 4: Evaluation and Selection

There are many differences among jurisdictions as to how they evaluate bids and proposals. This description is a typical sequence of steps. Consult with your own procurement specialists to assure you are complying with applicable laws, regulations and practices. If you have a selection committee, involve them in the evaluation process in order that they can make informed judgments on the selection.

For bids, evaluation begins on the date set as deadline for submissions. Usually, all bids are then opened in a public meeting and read aloud. Prior to the time of unsealing, bids should remain unopened in secure storage, and any information concerning the bids (such as which vendors have responded) should be made available only on a “need to know” basis. Typically bids are submitted to an official in the procurement department of government and remain in their custody until after opening.

For proposals, evaluation also begins on the date set for submission, although there usually is no public opening.

First, eliminate all vendors that do not meet every mandatory requirement in your request. If you have few responses and this first sweep results in the elimination of all proposals, you

can either revise your set of mandatory features and so notify the vendors, or you can cancel the solicitation and start over. Consult your procurement officials. More likely, you will have just a few solicitations that meet the mandatory criteria and you move on to full evaluation based on the desirables. You may want to have a presentation and demonstration by each of these vendors.

If at any point in the process it is clear that only one vendor satisfies your requirements and there is no inclination or reason to modify those requirements, then you probably will turn to negotiating a Sole Source contract.

For the proposals that meet your mandatory criteria, carefully review each to familiarize yourself with its contents. Then evaluate the package against the criteria previously established, assigning for each factor a score on a scale of 1 to 5 to represent the degree to which the package satisfies that requirement. Multiply the score by the weight assigned to the criterion to determine weighted score, and repeat the process for each of the criteria. Add up the weighted scores for all the criteria to arrive at a total score for each package. Rank each package according to the total score received, highest to lowest. Optimally, after this process, one vendor’s submission should

stand out as superior to the others in terms of ability to satisfy user needs. If scores are very close, reexamine the individual assessments and revise if you think it appropriate to do so. Discussion of the assessments by the Selection Committee will sharpen understandings and enable you to refine your judgments.

Even if you have full faith in the evaluation process and your application of it, you need not rush into selection. To verify your judgments, and claims about the system and the vendor, contact other users of the system and visit at least one site. Complete the cost analysis you started earlier, comparing the cost of the current system with each of those still in the running. By this time you should be able to define the line items in the operating budget, and find out from nearby users what their corresponding costs are. Remember that actual costs in other jurisdictions constitute a more reliable predictor of what your costs would be than do estimates provided by the vendor.

Confer with the other users also about factors other than cost: reliability of the system; comprehensibility and convenience to voters;

ease of management for poll workers; truthfulness of vendor claims; quality of vendor service and competence of personnel, particularly during implementation and for election day emergencies; training of election staff; completeness of documentation; public understanding and acceptance.

It may be possible, in your procurement system, to invite each of the finalist vendors, by letter, to submit in writing a “best and final” offer. Restrict the “best and final” to only a proposed increase in system capability, a decreased cost, or both. That is, they can reduce the cost of their proposal or, for the same cost, add substantive features such as more software, hardware, training, etc. Do not be swayed by cosmetic improvements.

Wind up your evaluation with a full discussion of the evaluation experience by the selection committee, including input from the procurement specialists. Review your judgments in the context of the needs and standards you defined in the beginning and refined as you moved through the process. Then notify the successful vendor of your decision, and move on to the contract.

Step 5: Contracting

No matter how you arrived at a selection decision, getting the system you want is not assured until you negotiate and sign a contract.

Often the vendor presents a standard contract which is accepted by the purchaser with little or no amendment — a course of action which is almost sure to result in a contract that heavily favors the vendor. ***Write your own draft contract, and lean on your procurement specialists who will provide the support and protection you need.*** You can be sure that the vendor has his own specialists to assure that his interests are protected.

The contract should clearly describe the products and services involved, and precisely define all commitments and performance representations made by the vendor. It should also define the terms of the procurement. The Georgia Secretary of State offers valuable advice to county election officials as they approach contracting for voting systems:

During the marketing phase of a procurement, it is not unusual for the vendor's representatives to verbally commit to almost anything that the customer suggests. These verbal commitments have the potential to become basis for legal disputes after the sale. The development of the contract is a good opportunity for

both parties to the agreement to identify and resolve any misunderstandings that have evolved as a result of marketing activities.

Keep in mind during the development of the contract that *none of the vendor's verbal commitments are binding unless they are contained in the contract.* If the vendor has made verbal commitments you wish to become binding, then you must write them down and append them to the contract. Similarly, if the vendor has made commitments in letters or memos which you wish to become binding, then you must append these letters and memos to the contract.

Contract Organization and Content

Because an acquisition of this type is complex and the contract governing it is long, organize the material in it to facilitate everyone's understanding:

Introductory. Include the date the agreement is entered into, and names and addresses of all parties.

Description of goods and services. This is a full description of the goods and services to be provided by the contractor. The details

may be placed in the body of the contract or included in an attached appendix or exhibit which constitutes part of the contract. This section should also indicate who holds title for purchased and/or rental equipment. For all equipment it should be stated whether it is to be new, used, or refurbished.

Be specific. What do you want, how many, what model? Draw on your RFP and the proposal submitted in response to it. If other jurisdictions in your State have acquired a system from the same vendor, confer with them to find out what they included in their contract. This is particularly true for “full service” contracts where the definition of what is included in “full service” can vary substantially from one customer to another.

For example, a list of headings for which detailed requirements should be specified could include the following that apply in your situation:

- Hardware
- Software
- Documentation
- Parts and accessories
- Maintenance and repair of equipment
- Custom programming and modifications of software
- Ballot design and production
- Program coding
- Training and training materials, both polling place and office staff
- Technical support, during implementation and election day; on-site or on-call; response time.
- Delivery, including schedule

Pricing and payment terms. Here the procurement, budget and legal specialists can take the lead to get the best buy for the jurisdiction’s circumstances.

The vendor may offer a wide range in method in method of payment — purchase, lease purchase, rental, full service — each of which will result in a different bottom line. The choice of method may well be determined by the availability of funding, whether payment must be spread over a number of fiscal years, and whether acquisition will be funded by bonds issuance of which may have to be approved in referendum.

The schedule for payment should be specified. Often a portion of the payment is made at each of several defined milestones in the acquisition schedule, but in no case should payment in full be made until all goods and services have been delivered, examined, and found to be satisfactory.

A contract may contain a condition that it will not be binding unless the appropriate governmental authority endorses the contract with a certification that sufficient funds are available to make the payments required. It may state that, if government approval is required, the contract shall not be binding to either party if that approval is not obtained, or if funds are not appropriated, subsequent to the award.

General contract provisions - obligations of the parties. These are examples of provisions of this type appropriate for contracts for computer-related goods and services:

- License Grant - granting of the right to use software and related materials.
- Ownership Rights/Restrictions - sets out in detail which party owns the various

deliverables; often used when there is a custom development of software.

- **Warranties** - specifies the terms and conditions of any warranties, or in the case of a service contract, provides warranties.
- **Remedies** - provides for how breaches of the contract will be dealt with; payment of damages, repair, replacement, etc.
- **Limitation of Liability** - limits the dollar amount of liability and the type of liability (actual damages, consequential damages, punitive damages).
- **Indemnification** - usually included to ensure one party that if it is brought into a lawsuit with a third-party as a result of the subject matter of the contract, due to no fault of its own, that it will be indemnified for its attorneys fees, costs, and any damage incurred.
- **Term and Termination** - provides for how long the obligations remain in effect.

General contract provisions - "boilerplate". Certain terms, for which standard wording has been established. Among them are amendment, assignment, default by reason of beyond control of the party, waiver, notice between parties, severability, and governing law. Your legal and procurement specialists will be your source.

Finally, the contract should not be signed without prior review by your procurement and legal advisors.

Acceptance

After the delivery of the items specified in the contract and before full and final payment is made, examine or test all of the deliverables. Make sure you can account for everything listed in the contract, that it is in good condi-

tion, and suitable for the use for which it is intended.

For the voting system proper — equipment set up and configured for the casting, tallying and tabulation of votes — your State election authority may monitor or participate in the acceptance test.

The Federal Election Commission's ***Voting System Standards*** presents a generic methodology for acceptance testing of marksense, punchcard and direct recording electronic voting systems, and includes a typical scenario with sequence of events.

In Georgia, the Secretary of State works with the local election agency to confirm that the system received is identical to the certified system, and that "... the installed equipment and/or software is fully functional and capable of satisfying the administrative and statutory requirements of the jurisdiction. Typically, the acceptance test demonstrates the system's ability to:

- Process simulated ballots for each precinct or polling place in the jurisdiction.
- Accept valid votes in every ballot position enabled by the ballot format.
- Reject overvotes and votes in invalid ballot positions.
- Accumulate quantity of votes in every ballot position equal to or greater than the expected maximum number of voters per device per system.
- Process a total number of ballots equal to or greater than the maximum number of voters expect to participate in an election.
- Produce an input to or generate a final report of the election and interim reports as required.

-
- Generate system status and error messages.
 - Generate system audit records.
 - Comply with and enable voter and operator compliance with the procedures, regulations and statutes of the jurisdiction.”

State Support for Acquisition

It could be said that the ultimate State support for voting system acquisition is in those few States that select, purchase and maintain the equipment used in all the local jurisdictions. However, that situation is not the norm; in most instances, the acquisition is a local matter.

It is appropriate that the State support local election authorities acquiring voting systems. Elections are a State function, and only with State participation can uniform compliance with law and consistency in performance of equipment be achieved. ***Such support is critically necessary for small jurisdictions where local government doesn't have a procurement agency to provide specialized expertise.***

A review of the States reveals wide variance in support, ranging from minimal to substantial.

Two developments of recent years suggest that State election authorities are taking greater interest in and responsibility for the acquisition of voting systems by their local jurisdictions: certification and FEC standards. Both developments came concurrent with the increasing dependence on computers in vote-casting and vote-counting.

Almost all States now require that a voting system be ***certified***, or approved, before it can be used in elections. The process varies from little more than “show and tell” to an exhaustive testing of capabilities. In some States, the use of outside examiners in the certification process adds a dimension of technical expertise that the State election authority does not have in house. Typically, these advisors include persons skilled in engineering, law, information technology, accounting, public administration, patent law, and election management. A number of States have comprehensive regulations governing the certification process; among them are Illinois, Indiana, Massachusetts, Michigan, New York, Ohio, Texas, Washington and Virginia.

The ***Voting System Standards***, developed by the Federal Election Commission and published in 1990, and currently being updated, makes it possible to apply the same demanding yardstick to all systems, resulting in technical scrutiny and assessment of both hardware and software that was impossible at the individual State level. Fortunately, the National Association of State Election Directors initiated a program to realize the potential of the standards. They designate qualified independent testing authorities which

assess systems and approve those that comply with the standards. Now a State can be assured that a system with that approval need only be subjected to functional testing within the framework of a State's own election structure and law to justify approval for use.

Conducting a thorough certification and requiring compliance with FEC standards constitute the first and very significant level of State support for local election agencies acquiring voting systems. With some States, support doesn't extend beyond that point. In others, it is only the beginning. These are examples of meaningful support provided:

- Summary of provisions of relevant **law and regulations**.
- Written **guidelines for vendors** which assure there will be understanding of their obligations to the State and to the customers. In Ohio, the guidelines include the provisions of law relating to voting systems, the calendar for certification, and a detailed description of the examination process and a rating system based on established criteria.
- **Assistance in selection**, if requested.
- The **contract**. Frequently, State review and approval of the contract is required before it can be signed. Occasionally, some very specific contract provisions are mandated in law: a guarantee to provide training and assistance to election officials; maintenance for five years without additional cost; performance bond; affidavit disclaiming inappropriate influence in awarding of contract. In Indiana, the Voting Systems Advisory Committee produced a model contract for guidance of the county election boards. State review of contracts before they are finalized can assure that

all customers of one vendor get the same break in price and in extra features.

- Escrow of proprietary software, recommended in the FEC standards as a protection for both users and vendors, is provided by a number of States.
- Require and participate in acceptance testing.

The support programs of two States — Georgia and New York — are exemplary.

In Georgia, the Secretary of State has produced the **Voting Systems Manual: An Assistance Tool for Election Superintendents**. It begins with a review of the available systems that utilize computer technologies, suggests questions to be asked to establish the need for a new voting system, and explains the certification requirement. Then it proceeds to guide the county election official through the procurement steps. It is tailored for use in Georgia, but includes many general truths that would serve any election agency well. Sections of the guidebook focus on the types of voting systems available, their advantages and disadvantages; suggests two methods of procurement; reviews acceptance testing. Finally, it makes a most generous offer to the election officials of the State:

. . . [We] recognize that there is no substitute for face-to-face assistance from a person that is knowledgeable in all aspects of computers and computer-based voting systems. The State Office of Elections will make every effort to make such a consultant available to you. To receive this assistance, you need only to call the State Election Director.

Who could ask for more?

In New York, the process of acquisition is thoroughly defined in law, in regulations and

in administrative directives. Only systems that have been found to be in compliance with the FEC standards are considered for acquisition. After a demanding certification regimen, the State Board of Elections (SBOE) monitors and participates in every step of the acquisition process, up through the acceptance testing and the evaluation of performance of the system through periodical review of maintenance logs. For preparation of the contract (which must be submitted to the SBOE for approval) a packet of materials is provided, including:

- Legal memorandum on general directives for contracting; summary of statutory and regulatory provisions, review of the certification report for the particular system; sta-

tistical data required in contract, and a schedule of events and key dates for acquisition. Also, specifics of provisions for delivery and acceptance testing, training, warranty, and vendor support pre-election, election day, and post-election.

- Memorandum from SBOE containing sample contract provisions that accord with specific provisions of code and regulation.
- Sample list of appendices — Acceptance testing, procedures and dates; list of polling places; training schedule; storage sites and conditions; maintenance/repair/replacement of equipment - schedules and description of procedures; performance bond; service and warranty; check list.



Appendices

The appendices which follow provide useful examples of the steps in the acquisition process used by election authorities throughout the country. From many graciously supplied to this study, these were selected to be as representative as possible — local and State; small and large jurisdictions; various aspects of the process; various types of systems procured — and should be valuable as background and guidance for an election agency approaching an acquisition.

For some documents too lengthy to permit publication of the full text, an outline or table of contents is presented to indicate the coverage.

The source of each is indicated to make it possible for the interested reader to contact that source for further information.

<u>No.</u>	<u>Subject</u>	<u>Document(s)</u>	<u>Source</u>
1.	Acquisition process.	Outline	Board of Elections Lorain County, Ohio Marilyn A. Jacobcik, Director Telephone: 440-329-5542 Fax: 440-323-8386
2.	Acquisition process, Voting System.	<u>Georgia's Voting Systems and Equipment</u> Chapter III - Procuring a New Voting System	Election Division Office of the Secretary of State Telephone: 404-656-2871 E-mail: spsweb@sos.state.ga.us
3.	Needs Analysis, Voter Registration System.	Executive Summary & Table of Contents	Gary O. Bartlett, Exec. Director North Carolina State Board of Elections Telephone: 919-733-7153 E-mail: gbartlett@sboe.state.nc.us

<u>No.</u>	<u>Subject</u>	<u>Document(s)</u>	<u>Source</u>
4.	Needs Analysis, Voting System.	Annotated outline	FEC/Clearinghouse Ad Hoc working group
5.	Request for Proposal, Voting System.	Detailed outline	FEC/Clearinghouse Ad Hoc working group
6.	Selection process, Voting System.	Study of five systems, both optical scan & punchcard. Problem definition, evaluation of features, cost analysis.	Ernest Hawkins, Registrar Sacramento County, California Telephone: 916-875-6451 Fax: 916-875-6516
7.	Selection process, Voting System, DRE.	Pilot project, 2 parts: planning & evaluation	Kathryn Ferguson, Registrar Clark County, Nevada Telephone: 702-386-4055 E-mail: kjf@co.clark.nv.us
8.	Selection process, PC-based Election Tabulation Network System.	Sole source procurement: Justification memo & Contract	David Leahy, Supervisor of Elections Metro-Dade County, Florida Telephone: 305-375-3150 E-mail (office): tov@itd.metro-dade.com
9.	Selection process in a small county. Voting System, Optical Scan.	Needs Analysis memo & Evaluation, including comparative cost study	Brenda Williams, Election Director Queen Anne's County, Maryland Telephone: 410-758-0832 Fax: 410-758-1119
10.	Contract, Voting System, punchcard.	Model Contract	Laurie Christie, Co-Director Indiana State Election Commission Telephone: 317-232-3939 E-mail: lchristie@iec.state.in.us
11.	Contract, Voting System.	Legal memorandum & Sample contract provisions	Thomas R. Wilkey, Exec. Director New York State Board of Elections Telephone: 518-474-8100 E-mail: twilkey@elections.state.ny.us

<u>No.</u>	<u>Subject</u>	<u>Document(s)</u>	<u>Source</u>
12.	Contract, Voting System, DRE c/ punchcard system for absentee.	Table of Contents	Kathryn Ferguson, Registrar Clark County, Nevada Telephone: 702-386-4055 E-mail: kjf@co.clark.nv.us
13.	Evaluation of system in use.	Memorandum	Kathryn Ferguson, Registrar Clark County, Nevada Telephone: 702-386-4055 E-mail: kjf@co.clark.nv.us



Appendix 1

Procedural Outline

Board of Elections
Lorain County, Ohio

**ACQUIRING TECHNOLOGY:
PURCHASING A COMPUTER SYSTEM FOR THE BOARD OF ELECTIONS:**

Marilyn A. Jacobcik, Director - Lorain County Board of Elections

DEFINE YOUR NEEDS:

- Self Identification Process
- Major Components: Registration, Ballot Tabulation, Office Automation
- Assessment of Current Systems
 - Hardware & Software
 - Age of Equipment, Down Time, Cost of Repair
 - Storage Capacity
 - Integration of Applications
 - Personnel Assessment
- Future Anticipated Needs
 - Motor Voter, Expected Legislation
 - Enhancing Applications - Forms, Reports, Etc.
 - Personnel

DECISION TO BUY

IDENTIFY THE PLAYERS

- Board Members
- Director and Deputy Director
- Employees
- Commissioners/Budget Department
- Data Processing/Independent Consultants
- Vendors
- Secretary of State

ESTABLISH TIME FRAME

SELECTION PROCESS

- Available Technology
- Development of Bid Specifications
 - Legal Determinants
 - Approvals
 - Write the R.F.P.
 - Advertise and Accept Bids
 - Select and Award (Includes Funding)

EMPLOYEE PARTICIPATION

- "Buy In" - Consensus Building
- Begin Thinking in New Terms
- Make You Objective
- Your Best Source of Information

Hints: *Start Yesterday! You're already running late.
Whatever is on your wish list will be obsolete by the time you get it.*



Appendix 2

Georgia's Voting Systems and Equipment Chapter III - Procuring a New Voting System

Election Division
Office of the Secretary of State
Georgia

Georgia's Voting Systems and Equipment**III. PROCURING A NEW VOTING SYSTEM****3.1 Selecting a System**

The following sections describe two approaches to procuring a new voting system. One approach involves deciding how much resources, primarily money resources, you have available and then procuring the best system that you can buy for that amount of resources. This approach, described in Section 3.1.1, is called the Request for Quotation Approach. The other approach involves conducting a 'Needs Analysis' to determine your requirements and then procuring the system which best meets these requirements. This approach, described in Section 3.1.2, is called the Request for Proposal Approach.

There is a certain amount of overlap between these two approaches. Furthermore, the descriptions below are not meant to be taken literally. The chances are that your procurement will not strictly follow either approach, but will be a combination of the features from both approaches that best fit your particular needs and your particular procurement requirements. It is recommended that you solicit the services of your county attorney in the development of your specific procurement process.

During the procurement, you should keep in mind that a voting system, once installed, usually continues in operation for a long time, typically over ten years. This means, of course, that you will enjoy the benefits of your new system for over ten years. Unfortunately, it also means that you will have to live with any deficiencies or oversights for a very long time.

3.1.1 The Request for Quotation Approach

In this approach to procuring a new voting system, you decide which of the available voting systems you are willing to accept. You then issue to the vendor(s) a Request for Quotation (RFQ) for those systems that are acceptable. The selection is then based on which of the vendors offer you the most 'bang for your bucks.'

3.1.1.1 Analysis of Resources and Requirements

This is the process of deciding whether or not you can afford a new voting system and, if so, what are your most pressing problems that you want the new system to solve. There are two distinct activities: one is to identify and prioritize the biggest problems you are having with elections and the other is to see if there are any affordable voting systems available that can solve these problems.

An easy and effective way to identify problems is to have someone write down what they

think about the biggest problems you have or will have with elections. The list should contain at least five but not more than ten items. Write these on a large piece of poster board and hang it on the wall. Ask people to comment on the list: suggesting items to add or delete and ranking them in order of importance. This process will usually quickly develop a prioritized list of your major election problems.

There are two ways to determine if any of the available systems can meet your needs: ask the vendors and ask your neighbors. As soon as the vendors find out that you are considering a procurement, they will begin to call on you. Be open, but, of course, non-committal. Tell them what you are doing, show them your list, and invite them to comment about how their systems would solve your problems. However, the best source of information about existing systems is your neighbors.

Make a list, on paper or mentally, of the counties that are similar to your county in size, population, growth rate, political structure, etc. Call or visit these counties to find out what system they are using, how happy they are with the system, and how well the vendor(s) support these systems. Be sure to ask about support vendors as well as the primary voting system vendor: who supplies their paper or card stock, who does their ballot layout, who prints their ballots, who provides training, etc. They can also provide you with some general price guidelines.

Using the information gained above, you should be able to decide which voting systems you are willing to consider and which vendors can supply these systems. The final thing to do in this activity is to verify that the systems you wish to consider have been certified for use in the State. Appendix A is a list of voting systems that have been certified for use in the State. A call to the Elections Office can determine the status of a voting system that is not on this list.

3.1.1.2 The Request for Quotation

For each of the voting systems that you have selected for consideration, write a letter to the vendor requesting a quotation. In your letter be as specific as possible. Some items you might want quoted include:

- start-up training for your staff at your location.
- on-going training at your location.
- on-going training at the vendor location.
- location of maintenance support

- guaranteed problem response time.
- guaranteed problem response time on election day.
- guaranteed price caps on training, maintenance, supplies, etc.

Also, you may want to provide the vendor with the maximum amount of money you are prepared to spend. Do not be shy about addressing problems which were identified by your neighbors. For example, if your neighbors indicated that a certain vendor is slow to respond to telephone inquiries, then put a minimum response time requirement for telephone inquiries in your RFQ.

3.1.1.3 The Final Selection

The first step in the evaluation of the quotations from the vendors is to eliminate any vendor whose quotation does not respond to all of the requirements listed in your RFQ. These vendors can either be eliminated from consideration or given an opportunity of revise their quotation. However, allowing a vendor to modify a quotation without extending that option to the other vendors may have legal implications and should not be done without consulting your county attorney.

Usually, by the time all of the quotations are in, one or two vendors will have emerged as clearly superior to the others. You can improve your position by asking each of these finalists to submit, in writing, a best and final offer. Restrict these best and final offers to only a proposed increased product capability, a decreased cost, or both. That is, they can reduce the cost of their proposal or, for the same cost, add features such as more software, hardware, training, etc. Do not allow 'slight of hand' improvements such as more account representatives or additional site visits.

When making your final decision, keep in mind that you are trying to get the best voting system, not necessarily the cheapest. Trust your instincts. The best indications you will get are the advice of your neighbors and your gut feelings.

Having make your selection, you are now ready for Section 3.2, Writing the Contract.

3.1.2 The Request for Proposal Approach

This approach is based on conducting an analysis of your needs and developing these needs into a System Specification which describes the features that you want the new voting system to posses. This System Specification is developed into a Request for Proposals (RFP) which is issued to the prospective vendors. The selection is then based

on how well the vendors respond to the requirements of the RFP.

3.1.2.1 Needs Analysis

The 'Needs Analysis' is the process of determining whether or not you should acquire a new voting system and, if so, precisely what you expect the new system to do. These decisions, of course, must be tempered by the resources you will have available, both before and after the purchase of the system, to operate and manage the new system.

The following sections describe the various items that you will probably want to address during this phase of your procurement process.

3.1.2.1.1 Statement of Need

Develop a complete description of your current election system. Describe all the features of the system, beginning with ballot design and layout and continuing through the final printing of the election results and audit trails. Identify those features of your current system which you like and wish to retain and those features which you feel can or should be improved upon by the new system. Include in this analysis your ballot printing system, if any.

Finish the Statement of Need with a description of main reasons you wish to replace the current system. Is it too slow? Too difficult to maintain? Too difficult to setup and operate? Simply obsolete?

3.1.2.1.2 System Specification

Prepare a description (sometimes called a System Specification) of the features that you want on the new system. As you describe each feature, decide whether that feature is mandatory or desirable. A mandatory feature is one that you feel you cannot live without. On the other hand, a desirable feature is one that is not absolutely necessary but would be nice to have. Keep in mind as you prepare these lists of features that a vendor must be able to provide all of your mandatory features in order to submit a responsive bid. Thus you must be careful that you do not inadvertently eliminate a vendor by requiring a feature that the vendor cannot supply.

It will be much easier to evaluate the proposals if you can assign some system of weights to the desirable features. One scheme for assigning these weights is to rate each desirable feature as a percent of the total desirable features. For example, suppose you have only three desirable features: on-site training, on-site election day support, and twenty-four hour maintenance. If you consider on-site training and twenty-four hour

maintenance to be about equal in importance, but on-site election day support to be twice as important; then you could assign weights to these features as follows:

on-site training	25
on-site election day support	50
twenty-four hour maintenance	25
Total Weights	100

Thus, when the proposals are evaluated, a vendor that bid about half as much on-site training as you expected can be awarded one-half of the points for that feature. In this manner, you can quantify the vendor's responses and greatly facilitate final selection.

The types of features that you can specify may include features for the system software and hardware, the location of the vendor's support and training, the amount of free training provided, the method by which the vendor will maintain the system, the ability of the system to interface with other systems that you presently own or intend to acquire, etc.

3.1.2.2 The Request for Proposal

The Request for Proposal (RFP) can be as simple as a business letter or as complex as you wish to make it. In any event, it should be written and it should be widely distributed. It is far better to send the RFP to a vendor that cannot respond than to omit a vendor with a viable product. Appendix A contains a list of the vendors that are certified to offer voting systems in the State of Georgia at the time that this document was published. The Office of the Secretary of State can provide you with an updated copy of this list.

You cannot use a system to count an election until that system has been certified for use in Georgia by the Secretary of State. If you are considering a system that has not been certified, keep in mind that certification in Georgia typically requires twelve to eighteen months.

Your RFP should contain, as a minimum, the following sections:

Statement of Need: The Statement of Need that you prepared during the Needs Analysis.

System Specification: The System Specification that you prepared during the Needs Analysis.

Proposal Instructions: A description of the items that the vendor must address in their proposal. This may include such items as an executive summary, information about the company's background and qualifications, the company's technical approach, how the vendor proposes to maintain and repair the system, the availability and location of training, and finally the cost. Total cost, that is. Not just the purchase price but also any continuing cost; including such items as the cost of recommended maintenance, cost of additional training not included in the purchase price, cost of additional documentation and training materials, cost of election setup and ballot preparation, etc.

Evaluation Criteria: Present as definitively as possible the procedure that will be used to select the successful vendor. If you plan to take the financial strength of the company into consideration, say so. If you plan to make site visits to review the company's training and maintenance capability, say so. If you plan to assign weights to the desirable features in your System Specification, include the weights in your proposal.

Schedule: Contain in your RFP a complete schedule of the procurement cycle beginning with the date you intend to issue of the RFP and ending with the date you expect to announce the system you have decided to buy. If there are any specific performance dates that must be met, such as the conduct of an upcoming election, these dates should also be included in the schedule.

As a final note, be sure to state in the RFP that the RFP itself and the vendor's proposal are to be made a part of any contract that results from the procurement.

3.1.2.3 Evaluating Proposals

The first step in the evaluation of the proposals is to eliminate all vendors that do not respond to every mandatory feature in the System Specification. Obviously, if this results in the elimination of all of the proposals, you can either revise your set of mandatory features and so notify the vendors or you can cancel the RFP and start over.

The next step is to rank the remaining proposals in the order of their responses to the desirable items. This is done by evaluating each vendors response to each desirable feature and assigning the weights accordingly. This step will sometimes lead to a clear winner; however, the usual result is the elimination of all but two or three vendors.

Invite each finalist, by letter, to submit in writing a 'best and final' offer. Restrict the 'best and final' offer to only a proposed increased product capability, a decreased cost, or both. That is, they can reduce the cost of their proposal or, for the same cost, add features

such as more software, hardware, training, etc. Do not allow 'slight of hand' improvements such as more account representatives or additional site visits.

3.2 Writing the Contract

No matter what procedure you use to arrive at a procurement decision, you are eventually going to be faced with the necessity to enter into a contract with the selected vendor(s). Writing and executing a formal, written contract is often viewed as a routine matter or a necessary chore. The usual scenario is for the purchaser to sign the vendors 'standard' contract. This course of action is almost sure to result in a contract that heavily favors the vendor in all possible situations.

During the marketing phase of a procurement, it is not unusual for the vendor's representatives to verbally commit to almost anything that the customer suggests. These verbal commitments have the potential to become basis for legal disputes after the sale. The development of the contract is a good opportunity for both parties to the agreement to identify and resolve any misunderstandings that have evolved as a result of marketing activities.

Keep in mind during the development of the contract that *none of the vendor's verbal commitments are binding unless they are contained in the contract*. If the vendor has made verbal commitments which you wish to become binding, then you must write them down and append them to the contract. Similarly, if the vendor has made commitments in letters or memos which you wish to become binding, then you must append these letters and memos to the contract.

In general terms, most contracts include basic operative terms that govern the obligations of both parties:

- a. License Grant – the granting of the right to use software and related materials.
- b. Performance Obligations – specifies what actions each party is obligated to perform, such as development and/or modification of software, delivery and installation of the voting system, on-site or on-location training, acceptance testing of the system, etc.
- c. Payment Terms – describes how and when payment will be made and often includes conditions for payment.
- d. Ownership Rights/Restrictions – sets out in detail which party owns the

various deliverables of a system; particularly used when there is custom development of software.

- e. **Warranties** – specifies the terms and conditions of any warranties , or in the case of a service contract, provides warranties.
- f. **Remedies** – provides for how breaches of the contract will be dealt with: payment of damages, repair, replacement, etc.
- g. **Limitation of Liability** – limits the dollar amount of liability and the type of liability (actual damages, consequential damages, punitive damages).
- h. **Indemnification** – usually included to ensure one party that if it is brought into a lawsuit with a third-party as a result of the subject matter of the contract, due to no fault of its own, that it will be indemnified for its attorneys fees, costs, and any damage incurred.
- i. **Term and Termination** – provides for how long the obligations remain in effect.

Certain terms in contracts do not vary much from contract to contract, but are usually included. Particular wording for these contract terms become "standard" as they pass the test of courts and usage. Some of those standard (or "boilerplate") terms are as follows:

Amendment: No amendment to this Agreement shall be valid and binding unless it has been signed by an authorized representative of both parties hereto.

Assignment: This Agreement and all rights and obligations hereunder may not be assigned in whole or in part by either party without the prior written consent of the other party.

Force Majeure: Neither party shall be in default by reason of failure in performance of this Agreement if such failure arises, directly or indirectly, out of causes reasonably beyond the direct control of such party, including, but not limited to, acts of god or of the public enemy, U.S. or foreign governmental acts in either a sovereign or contractual capacity, fire, flood, epidemic, strikes and/or freight embargoes.

Waiver: Any failure by either party to detect, protest, or remedy any breach of this Agreement shall not constitute a waiver or impairment of any such term or condition, or the right of such party at any time to avail itself of such

rem dies as it may hav for any breach or breaches of such term r condition. A waiver may nly occur pursuant to the pri r written expr ss permission of any authorized officer of the other party.

Notice: All communications between the parties which are required or permitted to be in writing shall be sent by hand delivery, with receipt obtained, or by prepaid, first class U.S. postal service mail, certified return receipt requested, and sent to the addresses specified in the signature blocks below. By written communication, either party may designate a different address for purposes hereof.

Severability: If any provision of this Agreement is held invalid by a court of competent jurisdiction, such invalidity shall not affect the enforceability of any other provisions contained in this Agreement, and the remaining portions of this Agreement shall continue in full force and effect.

Governing Law: This Agreement shall be governed by, interpreted and construed in accordance with the substantive laws of the State of Georgia.

Integration: This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter hereof and supersedes any and all previous understandings, agreements or communications, oral or written, relating to the subject matter hereof.

3.3 Acceptance Testing

The final step in the procurement process is acceptance testing. The main purpose of the acceptance test is to ensure that the system that was delivered to the jurisdiction is, in fact, identical to the system that was originally certified for use in the State.

After the system has been delivered and unpacked and the vendor or your staff has setup and tested the system, you should call the Elections Office and notify the Elections Director that the system is available for testing. The Elections Director will then arrange for and schedule the acceptance test at a time that is convenient for you. Although it is not necessary, it is recommended that you invite the vendor to be present at the acceptance test.

Appendix 3

Executive Summary and Table of Contents of a Needs Analysis for a Voter Registration System

Executive Director
State Board of Elections
North Carolina

Executive Summary

The North Carolina General Assembly, in its 1994 Regular Session, directed the State Board of Elections to use an outside consultant (vendor) to conduct a needs assessment and requirements analysis for computerized voter registration. The State Board of Elections desires to retain the services of a well-qualified vendor to accomplish the goals set forth in the governing legislation.

The National Voter Registration Act of 1993 (NVRA) mandates certain changes in voter registration for federal elections. To comply with these regulations only, voter registration procedures for federal elections would have to be changed and would create a new, separate set of registration records for federal elections. In its 1994 Regular Session, the North Carolina General Assembly passed House Bill 1776, which makes the provisions of the NVRA applicable to both federal and state voter registration. Compliance with the NVRA and H.B. 1776 is the objective of the *Needs Assessment and Requirements Analysis for Computerized Voter Registration* project.

There is presently no statewide voter registration system in North Carolina, the tenth largest state in both total population and voting-age population. Voter registration is handled at the county level. Some counties maintain modified office hours, where the elections employees are less than full-time employees, while others operate with multiple full-time personnel. The state gathers information in various forms from the counties, and the State Board of Elections uses this data to create some statistical reports, but there is no common structure and no central repository for that information.

Each of the 100 counties in the state has its own individualized management system for handling the voter registration process. While elections procedures are legislatively mandated, the systems by which the processes and records are handled vary widely in degree of computerization. These systems range from a completely paper-based, non-computerized system, to personal computer (PC) networks or workstations running vended software, to utilization of the county's mainframe.

The State Board of Elections envisions an integrated system and methodology that will allow the counties to maintain their own records and share that information within the county, with other counties, with the State Board of Elections, and with other state and federal agencies. This unified system should provide management for voter registration, election processing, campaign reporting, and the reporting requirements of local

State of North Carolina — State Board of Elections
Needs Assessment and Requirements Analysis for Computerized Voter Registration
Request for Proposals

boards, the State Board of Elections, and federal legislation. The system should also provide a unifying information model that allows public inquiry while protecting the privacy of the voter and the security of the data.

The State Board of Elections has defined the following six major tasks needed to assess successfully the current computerization of elections management and enumerate the requirements necessary for meeting present and future needs.

1. Assess the present situation at the county level.
2. Assess the present situation at the state level.
3. Review the experiences of other states with designing and implementing a voter registration system.
4. Determine the major requirements of a system that addresses the present and future needs of a statewide voter registration system.
5. Identify alternative means of achieving the goal of a statewide computerized voter registration system.
6. Prepare a final report that incorporates this information.

To accomplish each of these tasks, the State Board of Elections believes that county and state elections agencies and their respective computer information management entities, if any, will have to collaborate with the vendor to ensure the successful completion of this project.

This Request for Proposals (RFP) provides interested parties with the information needed to prepare proposals that describe how the vendor would execute this project. In general, vendors submitting proposals should possess the following:

- ◆ Experience and expertise in information technology and telecommunications, including knowledge of industry trends and future directions based on the best information available.
- ◆ Experience and expertise in developing solutions that span diverse technical and organizational boundaries.
- ◆ Established record of successfully managing projects of comparable size and complexity.
- ◆ Experience in conducting large-scale, complex projects using appropriate quality assurance practices to ensure successful completion of the project.
- ◆ Experience with automating government procedures or working with governmental agency computer systems, and in automating voter registration systems, if possible.

State of North Carolina — State Board of Elections
Needs Assessment and Requirements Analysis for Computerized Voter Registration
Request for Proposals

The North Carolina General Assembly stipulated in its appropriations legislation for this project that the selected vendor will *not* be considered for an award on subsequent hardware, software, software support, or related procurements which are based on the recommendations of this project. Although the legislation included a clause that allowed for the waiver of this provision, the State Board of Elections does *not* intend to exercise this option.

All parties who submit proposals for this project should therefore be aware that, if selected, they will not be considered for any future contracts that arise as a result of the specifications or recommendations offered in this project.

The *Needs Assessment and Requirements Analysis for Computerized Voter Registration* project is anticipated to begin on or about **November 1, 1994**, with the final report to the State Board of Elections due on or before **March 17, 1995**.

The issuance of this RFP does not constitute a commitment by the State of North Carolina to award a contract or to bear any costs incurred in the preparation of any response to this RFP.

North Carolina State Board of Elections
Request for Proposal
Needs Assessment and Requirements Analysis for Computerized Voter Registration

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Appendix 4

Annotated Outline of a Voting System Needs Analysis

Office of Election Administration
Federal Election Commission

NEEDS ANALYSIS - OUTLINE

I. INTRODUCE THE PROBLEM

If the Needs Analysis is to be presented to a chief administrative officer, legislative oversight committee, or state or local elections board, this section should be used to introduce the reader to the problems you have experienced that resulted in production of this document. This section should be a concise statement of the problem and should be in general terms that may include reference to one or more of the following:

- a disaster
- a near disaster
- increased workload
- a challenged election/an increase in the number of challenges
- bad press
- complaints/an increase in the number of complaints
- back logs of work
- legislative changes
- delays in processing or reporting vote totals
- errors/an increase in the number of errors
- increased costs that are not inflationary or are not a result of an explainable event

II. GATHER BACKGROUND DATE

A. General Demographic

To ensure that you finally obtain the voting system most suited to your jurisdiction, it is important to understand its demography as well as certain general information about your legal and political environment. You will need to provide the following information:

- The total population of the jurisdiction at the present
- The anticipated population in 5 years In 10 years
- Nature of anticipated growth/decline in population (i.e., uniformly in a certain direction, or in clusters throughout the area)
- Whether the jurisdiction is largely rural or urban
- Whether the mix is likely to change and, if so, in what way.
- The number of registered voters at present
- The number expected in 5 years In 10 years
- Average number of registered voters per precinct
- Average turnout in statewide elections
- Maximum allowable number per precinct
- Determine whether the jurisdiction has a disproportionately large number of voters who need special assistance to vote (i.e., elderly, handicapped, members of minority language groups, etc.)

- What if any specific obligations you have toward certain classes of voters
- Size of ballot at present
- Anticipated size in 5 years In 10 years
- Whether reapportionment is likely to have a significant impact on election administration in your jurisdiction
- Legal constraints imposed on the purchase of voting systems in your jurisdiction
- Constraints imposed by the political environment or by anticipated public response to change

NOTE: Information in this section may be obtained from other governmental offices (federal, state, local) and business planning new residential communities. The key is future planning, using all available resources, and asking for help.

B. Personnel Resources

This category of information focuses on the number of people you presently employ and their expertise in certain areas. In addition you should examine what other personnel resources could be made available to you from other sources such as other governmental agencies, private consultants, or universities or colleges in your area.

1. Total numbers

- Number of persons employed directly by your elections office
- Number anticipated in 5 years In 10 years
- Number of persons employed by other offices engaged in elections
- Office functions (e.g., data processing departments or other elections offices that conduct your elections on a contractual basis)
- Anticipated number in 5 years In 10 years

2. Expertise

- a. Planning-Management-Systems Analysis. Available expertise to help you plan for the type of system that will best meet present and future needs of your jurisdiction. Key considerations are: system compatibility, physical aspects, budgeting and planning, etc. What's needed here is a first-rate systems analyst totally familiar with your jurisdiction.

2. Legal expertise. Need contractual background, plus knowledge of all of your bidding, award, bond posting and other procedures.
3. A.D.P. Programming, maintenance expertise is critical.
4. Printing-graphics. Ballot design, printing, formatting.
5. Training. Who will train central staff, precinct workers, voters? System installation and ongoing training.

C. Administrative Procedures

1. General

One important consideration in this section is whether you conduct your own elections or whether these are conducted for you by other jurisdictions. If you, on the other hand, conduct elections for others, remember to take this into account. Along these lines, you will want to consider the following:

If other jurisdictions conduct your elections, are they doing it to your satisfaction? Is this something you would like to change?

If other jurisdictions conduct your elections, will they be in a position to do so in 5 years? In 10 years?

If you conduct elections for other jurisdictions, are you satisfied with the process?

Do you wish to continue to perform this service and, if so, will you be able to for the next 5 years? The next 10 years?

If you conduct elections for other jurisdictions, do you experience a lack of system compatibility or system capacity at the present? Do you anticipate problems in this area?

Are your elections-related data processing services performed in house? By another governmental agency? By an outside agency or vendor?

What are the advantages or disadvantages of this in terms of:

Speed
Accuracy
range of service
cost effectiveness

2. Space Layout
3. Work Flows

D. Identify Hardware/Software used to automate existing procedures

1. Which systems are presently automated

- absentee ballot processing
- affidavit processing
- ballot layout
- campaign reporting
- candidate certification
- election calendars
- indexes of registered voters/voters
- inventories
- official canvass reports
- polling place recruitment
- poll worker recruitment
- precincting
- preparation of test materials
- recordkeeping
- reports of registration
- semi-official canvass
- signature verification
- statistical/data gathering functions
- vote counting
- word processing
- writing election programs

2. Determine what additions or changes need to be made to automate the above systems or to improve/expand existing automation.

3. For each of the above processes, consider the following options:

- acquire new A.D.P. capabilities
- sell/scrap existing A.D.P. capability and add new capability
- retrofit all or parts of existing system

At this point you will need to consider what options are available to you. That is, is the automation you desire technically feasible and compatible with existing systems or equipment already in place. In addition, you may need to rethink any arrangements you have with your data processing department or outside vendor. Would your needs be best served by using a mainframe, mini, or micro-processor? The trade-off here is between concern for growth and capacity and flexibility and affordability.

Finally, you will want to consider whether the hardware you have is being used to its fullest possible capacity. Perhaps additional software or management practices could be implemented to improve the efficiency of existing equipment.

E. Identify the Problems - Both One-Time and Ongoing - with the Present System

1. Mechanical

Note any problems such as breakdowns, slowdowns, or reliability, maintenance, durability or safety problems with:

computer mainframes	Has advanced technology
card readers	made these components
voting machines	obsolete; is it difficult
other hardware components	to find replacement parts?

2. Software/Systems

Are the problems you have experienced due to programming errors, or general inadequacy of your software? Is your data processing system difficult to alter or maintain because of the lack of system documentation? Is it susceptible to tampering? Does the system provide such controls as audit trails, and system security?

3. Personnel

Are the difficulties you have experienced or anticipate due to a lack of well-trained technical staff, lack of staff acceptance of the equipment?

4. Administrative

Have your problems been due to:

- change in laws or procedures
- changes in regulations
- changes in election dates
- inability to meet administrative or statutory deadlines
- delays in reporting results on election night
- frequency of elections
- frequency of challenges
- frequency and accuracy of recounts
- staff shortages
- backlogs/delays

5. External

You may identify problems which are the result of:

- growth in population, registered voters, voters
- number of ballot issues or races
- consolidation of elections
- formation of new districts

6. Public Relations

If your office has experienced difficulties reporting election night results in a timely and accurate manner, or have had problems with recounts, delays in counting votes or processing voter registration records, you may encounter the negative perceptions of:

- media
- legislature
- public (the public could easily lose confidence in you, the voting system, or the elections process in general. If this occurs, you may want to involve public panel of some kind to observe your efforts to upgrade your elections system and to offer suggestions)

7. Budgetary

This category is probably self-explanatory. If your present system is costing more than in the past for the same services, if you have experienced budget cuts, or if you believe your projected budget will not meet the needs produced by projected growth, you need to analyze your system from the standpoint of costs.

A first step would be to analyze the procedures listed in E. 1. above. Note what the equipment costs for each function are, versus the personnel costs. Automation may be helpful in reducing expensive, labor-intensive, tasks.

You should also determine what purchasing constraints you are likely to encounter if this appears to be the course of action you contemplate. For example, you may be limited to a certain maximum dollar amount, or you may need to show that costs of the new system will be offset by future savings within a certain time period, i.e., you need to demonstrate a 3-year payback period, for example. It is important to gather information about such requirements or constraints early in the process.

Appendix 5

Detailed Outline of a Voting System Request for Proposals

Office of Election Administration
Federal Election Commission

SAMPLE OUTLINE FOR A REQUEST FOR PROPOSAL (RFP)
for a Voting System

- 1. Invitation to Submit Proposal**
 - Background
 - Project environment
 - Overview of the goals of the voting system
 - Definitions
 - Organization of the RFP
- 2. General Instructions**
 - Purpose of RFP
 - Schedule of procurement events
 - Bidder's conference (optional)
 - Inquiries regarding the RFP
 - Bidder's responsibilities
 - Proposals incorporated into contract
 - Verification of the cost proposal
 - Additional charges
 - Acceptance of offer
 - Alternative proposals
 - Alterations of terms
 - Conditions of proposal submission
 - On-site inspection
 - Information from other sources
 - Letter of credit
 - Proposal deliverables
 - Independent testing authority
- 3. Statement of Work**
 - Contractor's tasks
 - Deliverables
 - Hardware
 - Software
 - Maintenance
 - Training
 - Installation
 - Implementation schedule
- 4. Proposal Instructions**
 - Format and organization
 - Proposal contents
 - Management proposal
 - Transmittal letter
 - Executive summary
 - Identifying information
 - Offeror qualifications
 - Offeror's capabilities
 - State of readiness
 - Hardware production
 - Software development
 - Offeror's strengths
 - Implementation plan
 - Election support
 - Hardware assembly
 - Software installation, including training and maintenance
 - Bidder personnel

- Implementation and installation
- Ongoing election operations
- Staffing plan
- System acceptance
- Quality Assurance
- Local contractors and minority business enterprises
- Technical proposal
- Organization of the technical proposal
- Major system components response
- Computer system
- Application software
- Response to RFP requirements
- Evaluation demonstration plan
- Cost proposal
- Detailed cost data
- Cost item categories
- Cost derivation and future adjustment
- Third party services
- Satisfactory conduct of elections
- Proposal evaluation method
- Proposal opening and verification
- RFP requirements evaluation
- Evaluation of other criteria
- Bidder site visits
- Evaluation demonstration
- Demonstration sites
- Evaluation demonstration procedures
- Requirements to be demonstrated
- Evaluation demonstration plan
- Bidder's demonstration plan
- Evaluation demonstration schedule
- 5. Functional and Performance Specifications**
- Applicable documents
- System description - components, capabilities, usage
- Security and control requirements
- 6. Maintenance Requirements**
- Warranty coverage
- Extended maintenance provisions
- Repair and coordination responsibilities
- Response time for on-call service
- Repair
- Coordination of third-party vendor support
- Spare parts
- Parts availability
- Parts substitution
- Spare parts stock
- Test and maintenance equipment
- 7. Training Requirements, Elections Staff**
- System operator and user
- Maintenance technician
- System administrator

8. System Acceptance

Test responsibilities - vendor and purchaser
Test documentation - plans, specifications and procedures
Acceptance test requirements

9. General Terms and Conditions

Contractual
Patent protection
Escrow account
License and protection of confidential information
Letter of credit/securities deposit - satisfactory conduct of election
Premises accommodation (optional)
Storage and delivery
New equipment
Confidentiality
Payment for voting system components
Trade-in allowance
Purchaser's participation in system improvement and changes

Appendix 6

Study of Five Systems in a Voting System Selection Process

Registrar of Voters
Sacramento County
California

COUNTY OF SACRAMENTO

Inter-Department Correspondence

DATE: March 25, 1993

INFORMATION ONLY

TO: Members, Board of Supervisors

FROM: Ernest R. Hawkins
Registrar of Voters

SUBJECT: CONTINUED USE OF POLL STAR

On February 25, 1992, and again on July 14, 1992, your Board authorized use of the Poll Star voting system in elections administered by Sacramento County. Attachments 2 and 3 contain my reports and recommendations to your Board on those dates.

The Poll Star voting system has been used in four elections: the April 14, 1992 Special Election, the June 2, 1992 Primary Election, the November 3, 1992 General Election, and the March 2, 1993 City of Sacramento Special Municipal Election. In the June, 1992, election, I surveyed voters and polling place officials for their opinions on Poll Star. More than 81% of the respondents answered affirmatively when asked if Poll Star was easy to use. Although Poll Star was favored by a large majority of voters and polling place officials, I received several complaints about the system. Many of the complaints addressed internal procedures, such as the way races are printed in the Sample Ballot, the number of Sample Ballots sent to polling places and the use by voters of the incorrect Sample Ballot when voting. These procedures have been corrected. Very few of the complaints I received following the General Election addressed procedures. Nearly all were focused on one intrinsic feature of Poll Star: the names of candidates and ballot measures are not printed on the Poll Star voting device.

After the Primary, General and the City Special Municipal Elections, the Sacramento Bee wrote negative editorials about Poll Star, recommending that the system be abandoned (see attachment 4). Supervisor Grantland Johnson also sent me a memorandum asking me to review the use of Poll Star.

As a result of these factors, I directed staff to evaluate voting systems that have been certified for use in California by the Secretary of State, a prerequisite for use. The evaluation process included a review of accuracy, costs, savings, changes in internal and external procedures and ease of use by voters. The Secretary of State has certified three basic types of voting methods: paper ballots, punch-card systems and optically-read systems. Staff evaluated punchcard and optically-read systems. They did not evaluate paper ballots. A copy of the staff report is Attachment 1.

The following chart summarizes the costs of each type of punchcard and optically-read systems. Costs are based on a county-wide election, using current registration:

	1ST YEAR COSTS	ON-GOING COSTS	1ST YEAR COST PER REG. VOTER
PUNCHCARD SYSTEMS			
Poll Star	\$ 25,000*	\$ 50,411	\$ 0.126
Votomatic	\$ 7,000	\$ 155,737	\$ 0.271
Multiple card systems	\$ 151,600	\$ 284,604	\$ 0.727
OPTICALLY-READ SYSTEMS			
Op-Tech III-P (purchase)	\$ 6,068,800	\$ 423,485	\$ 10.820
Op-Tech III-P (lease)	\$ 68,800	\$ 1,603,485	\$ 2.787
Op-Tech IV (purchase)	\$ 568,800	\$ 418,985	\$ 1.646
Op-Tech IV (lease)	\$ 68,800	\$ 398,985	\$ 0.780
AIS	\$ 762,000	\$ 284,604	\$ 1.744


*Currently owe \$75,000

The optically-read systems require a substantial investment in equipment, regardless if the equipment is purchased or leased. Vendors of these systems indicated that the list price would be discounted for Sacramento County. The Data Vote system requires that each voter be issued several cards in order to vote the entire ballot. I believe that the potential for error and confusion is considerably greater than with any of the other systems. The Votomatic system, which was used by Sacramento County voters for more than 20 years, is not an expandable system. If the capacity of the ballot is exceeded, then either a supplementary ballot card must be issued to voters or a second voting system must be utilized. The attached findings and recommendations of staff include advantages and disadvantages of each system.

Unless directed to do otherwise, because of the cost of other available systems and because of the savings realized by using Poll Star, I will continue using the Poll Star system in elections administered by Sacramento County.

If you have any questions about any of the systems, would like to see a demonstration of any of the systems or wish to schedule this item for Board review and action, please let me know.

Respectfully submitted,


Ernest R. Hawkins
Registrar of Voters

Attachments

c: BOB SMITH
Gary Cassady

COUNTY OF SACRAMENTO
Inter-Department Correspondence

TO: Ernest R. Hawkins
FROM: Voting Systems Research Team
DATE: March 23, 1993
SUBJECT: VOTING SYSTEMS RECOMMENDATIONS FOR SACRAMENTO COUNTY

The Research Team was directed to investigate voting systems certified in the State of California and recommend a system for use in Sacramento County.

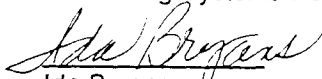
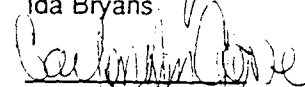
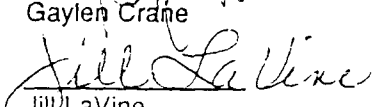
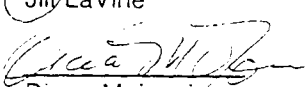

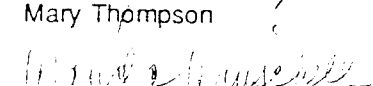
We visited the following counties to obtain information on the voting system they use:

Amador County	Optech (Optical) Voting System
San Joaquin County	Mark Sense (Multiple Card) Voting System
Alameda County	Votomatic Voting System

Addition information for this report was obtained from numerous phone calls to other counties and on-site demonstrations from Business Records Company and American Information Systems.

The research team recommends the continued use of the Poll Star Voting System, as the most cost effective, efficient system for use in Sacramento County.

The Voting Systems Research Team consists of the following personnel:

 Ida Bryans	Computer Operations Specialist
 Gaylen Crane	Election Assistant
 Jill LaVine	Election Assistant
 Diana Mojonjier	Election Assistant
 Mary Thompson	Election Assistant
 Wanda Winschell	Election Manager

RECOMMENDATIONS

March 23, 1993

VOTING SYSTEM: POLL STAR

Poll Star is the voting system this committee recommends for Sacramento County. Poll Star is the most economical voting system available. This is a generic system and will accommodate the minor party question. Present punch positions on Poll Star are projected to accommodate the county in the future. Poll Star is already in place in Sacramento County and would require no changes. More voter awareness is needed and the media would be a great help in this area. Poll Star is also compatible with the present computer system. Poll Star maintains the high standards of accuracy required by Sacramento County.

VOTING SYSTEM: VOTOMATIC

The Votomatic voting system would be the committee's second recommendation. Next to Poll Star this would be the least expensive system since we have the equipment. This system is voter friendly with the names of candidates and measures on the assembly pages. Minor parties can all be on one assembly. This system is compatible with the present computer system and maintains the high standards of accuracy required by Sacramento County.

VOTING SYSTEM: OPTICALLY READ

The Optech Eagle system (BRC), to buy or lease is an expensive system, but a good concept. We cannot recommend this system for Sacramento County at this time with the expense involved and the disadvantages listed on pages #4 to #6. This ballot counting system is not compatible with the present computer system.

COMPARISON REPORT
VOTING AND BALLOT COUNTING SYSTEM
FOR SACRAMENTO COUNTY
BY
VOTING SYSTEMS RESEARCH TEAM

March 23, 1993

VOTING SYSTEMS	PAGE
POLL STAR	1-2
VOTOMATIC	3
OPTECH III-P	4-6
IV-C	7-9
AMERICAN INFORMATION SYSTEM (AIS)	10-11
MULTIPLE CARD SYSTEMS (Data Vote, Mark-A-Vote, Mark Sense)	12-13

**ERNEST R. HAWKINS
REGISTRAR OF VOTERS**

VOTING AND BALLOT COUNTING SYSTEMS

POLL STAR

Poll Star uses a punchcard that is placed in a housing unit by the voter. The contests and numbers are printed on a separate sheet of paper or in a booklet. Those numbers correspond to identical numbers on strips of plastic, which are sealed with the Poll Star housing unit. The voter inserts the ballot into the housing unit, selects the number of his or her choices from the sheet of paper or booklet and punches out those numbers on a punchcard ballot. Has a ballot punch capacity of 312.

ADVANTAGES:

Saves money by not having to print, crimp, assemble, and proof the ballot assembly pages.

Have existing equipment for Poll Star voting system.

Upgrades and improvements requested by our department have been met.

Four (4) year contract now in effect, gives us free upgrades for length of contract.

Does not require separate booths for political parties in a Primary election.

Logic and Accuracy testing takes a matter of hours.

Precinct Officers are trained, no new learning curve.

All manuals and procedures are set.

Both Precinct Officers Training Tapes are filmed for this system (\$5000 savings).

Present storage space is adequate.

Inspectors pick up supplies at training classes.

Precinct officers do not have to proofread assemblies against sample ballot.

All write-in votes are in one area of the ballot.

DISADVANTAGES:

Names of candidates and measures are not on the ballot or assembly pages.

Requires significantly more sample ballots in precincts. Voter would need sample ballot to vote.

Poll Star units need improvement.

Poll workers must separate all write-in votes by hand.

**COST
ESTIMATES:**

See Attachment A

**INFORMATION FROM OTHER
COUNTIES:**

San Bernardino County also uses Poll Star. They had very positive results and are continuing to use Poll Star. Poll Star is under consideration in Santa Clara, San Diego and San Francisco Counties.

SACRAMENTO COUNTY VOTER REGISTRATION & ELECTIONS

ANALYSIS OF POLL STAR SYSTEM

	-----FY 91/92-----	-----FY 92/93-----	-----FY 93/94-----	-----FY 94/95-----	-----FY 95/96-----
	Votomatic System	Poll Star System	Poll Star System	Poll Star System	Poll Star System
Purchase voting booths 1,000 x \$375.00	375,000	No add'l needed			
Addition Labor/O.H. in assembling 150 hrs x \$28.00	4,200				
Purchase new Poll Star Assemblies 8,000 x \$12.50		25,000	25,000	25,000	25,000
Labor costs eliminated first year 902 hrs x \$8.13		(7,317)			
Net effect of economies of labor 1 Perm Elec Asst Sal & Ben		(33,000)	(33,000)	(33,000)	(33,000)
Printing costs eliminated 65,000 pgs x 185.00/M		(12,025)	(12,025)	(12,025)	(12,025)
Trade-In of existing equipment Hinges, masks, punch machine		(10,000)			
TOTAL	379,200	(4,342)	(20,025)	(20,025)	(45,025)

Cost Breakdown for June 92--Poll Star
Cost of Ballots
Cost of Assemblies

Divided by number of voters==\$12.50 per voter for these items only

VOTOMATIC

Votomatic uses a punchcard that is placed in a housing unit by the voter. Contests, candidate names and ballot measures printed on pages hinged in a housing unit (ballot assembly). This is the system used in Sacramento County from 1969-1991. Has a ballot punch capacity of 312.

ADVANTAGES:

Names of candidates and measures are on the assembly pages.

Requires three Sample Ballots to the Polling Place.

Have existing equipment for Votomatic/Ballot Assembly Pages.

One ballot assembly can include all minor parties.

Logic and Accuracy testing takes a matter of hours.

Present storage space is adequate.

Inspectors pick up supplies at training classes.

Sample Ballots are proofed against assembly pages.

Precinct officers are already trained.

Compatible with present computer system.

All write-in votes are in one area of the ballot.

DISADVANTAGES:

Will need to purchase more booths and votomatics.

Limited number of punch positions available. If exceeded a second ballot assembly would increase the cost.

Present Precinct Officer Training Tapes will need to be edited.

Crimping and assembling pages required.

Poll workers must separate all write-in votes out by hand at the end of the night.

COST See Attachment B

ESTIMATES:

INFORMATION FROM OTHER COUNTIES:

Currently being used in the following county:

Santa Clara County currently uses the minor party pages in one ballot Assembly. Voter readily accept this concept.

ATTACHMENT B

Voter Registration & Elections
 Comparison of Voting Systems
 March, 1993

	POLLSTAR	VOTOMATIC BALLOT PAGES	OPTECH	MULTI CARD
OTO COST TO CONVERT				
Equipment-Purchase				89,600
Rewrite Manuals		2,000	2,000	2,000
New Training Films		5,000	5,000	5,000
Voted Ballot Container			50,000	50,000
Redesign AV/Env/Forms			2,000	2,000
Rewrite InHouse Proced			2,000	2,000
Secrecy Envelopes			7,800	1,000
TOTAL OTO COST		7,000	68,800	151,600
ON GOING COSTS				
Equipment-Lease			1,200,000	
Warehouse/Storage			4,500	4,500
Print Votomatic		12,000		
Second System Needed		54,926		
Deliver Ballots			22,000	22,000
Labor Crimp/Proof		38,400	38,400	38,400
Total Ballot Cost	50,411	50,411	338,585	219,704
TOTAL ON GOING COST	50,411	155,737	1,603,485	284,604
ONGOING COST PER VOTER OVER POLLSTAR		0.1816	2.6777	0.4038

This is a portable unit that counts the ballots at each individual polling place. The election results are put onto a memory pack that is returned after the polls close election night to the receiving center, and the results can be processed immediately. Has a ballot capacity of 512. This system is sold by Business Records Corporation (BRC).

ADVANTAGES: Purchase

Names of candidates and measures are on the ballot card.

Could omit sending Sample Ballot with Absentee ballot package.

Good vendor support.

Flexible ballot size. Can print smaller ballot and save paper and printing costs.

Automatic voter assistance in case of overvote, mis-marked ballot or damaged ballot. Machine automatically returns the ballot to the voter if there is a problem. This gives the voter an opportunity to correct the problem.

Faster precinct result reporting on election night.

Accuracy—ballots can be read in any orientation.

Provisional ballots go into a separate bin within the Optech III-P Unit. Saves precinct officer from hand sorting.

Will separate ballots containing write-ins. Saves Precinct Officer from hand sorting.

In case of a power outage, ballots drop into an auxiliary box for counting when the power is restored.

Minimum amount of duplicating needed.

Demonstration of marking ballot at precinct easier.

Good audit trail from tape in memory pack on machine, up to the point of "Canvass of the Vote."

DISADVANTAGES: Purchase

Logic and accuracy testing is greatly increased. Testing will take a minimum of two weeks.

Insufficient space at our facility, would have to rent space.

BRC system and our present computer system will not communicate without a translation program being developed, so it is possible County would be supporting two (2) systems.

Ballot size varies. More warehouse storage space would be necessary. In large elections unvoted ballots would need three times as much storage space. Voted ballots would require six times as much storage space, would need off site secured storage.

May have to deliver supplies to precincts due to weight of ballots, adding a minimum of \$24,000.

More space required for storage of unvoted and returned voted absentee ballots.

Security during canvass is greatly increased due to change in the size of ballots.

Faster results will require double mileage, increased number of precinct officers or number of hours all personnel work election night.

Supplies would need to be modified, especially in absentee and precinct operations.

All manuals and procedures will need to be revised.

Both training tapes would need to be completely refilmed. This will cost approximately \$5,000.

ADVANTAGES: Lease

Same as purchase with additional advantages listed below.

No additional space for long term storage.

Will assist with training.

Includes all maintenance costs.

Includes all delivery and pickup costs.

Have an on site project manager.

DISADVANTAGES: Lease

Logic and accuracy testing is greatly increased.

Cannot use present logic and accuracy board.

No space currently available for logic and accuracy testing at our facility. Logic and accuracy must be done on site.

BRC system and our present computer system will not communicate without a translation program being developed, so it is possible County would be supporting two (2) systems.

Ballot size varies. More warehouse storage space would be necessary. In large elections unvoted ballots would need three times as much storage space. Voted ballots would require six times as much storage space.

Concern over loss of quality control of precinct supplies including ballots.

Would need off site secured storage.

May have to deliver supplies to precincts due to weight of ballots, adding a minimum of \$24,000.

More space required for storage of unvoted and returned voted absentee ballots.

Vendor delivers, sets up and tests equipment before the election. This gives us less control.

Security during canvass is greatly increased due to change in the size of ballots.

Faster results will require double mileage, increased number of precinct officers or number of hours all personnel work election night.

Supplies would need to be modified, especially in absentee and precinct operations.

All manuals and procedures will need to be revised.

Both training tapes would need to be completely refilled. This will cost approximately \$5,000.

This is a central card reader unit that tabulates the ballots and/or the memory pack from each polling place. The unit also tabulates Absentee Ballots and Mail Ballots at the receiving center. Has a ballot capacity of 512. This system is sold by Business Records Corporation (BRC).

ADVANTAGES: Purchase

- Names of candidates and measures are on the ballot card.
- Could omit sending Sample Ballot with Absentee ballot package.
- Good vendor support.
- Flexible ballot size. Can print smaller ballot and save paper and printing costs.
- Accuracy--ballots can be read in any orientation.
- Separates ballots containing write-ins and count the over votes.
- Minimum amount of duplicating needed.
- Good audit trail up to the point of the "Canvass of the Vote."
- Can give us the option of remote counting sites on election night.

DISADVANTAGES: Purchase

- Logic and accuracy testing will be slightly increased.
- BRC system and our present computer system will not communicate without a translation program being developed, so it is possible County would be supporting two (2) systems.
- Would need off site secured storage.
- Ballot size varies. More warehouse storage space would be necessary. In large elections unvoted ballots would need three times as much storage space. Voted ballots would require six times as much storage space.
- More space required for storage of unvoted and returned voted absentee ballots.
- May have to deliver supplies to precincts due to weight of ballots, adding a minimum of \$24,000.
- Security during canvass is greatly increased due to change in the size of ballots.
- Faster results will require double mileage, increased number of precinct officers or number of hours all personnel work election night.
- Supplies would need to be modified, especially in absentee and precinct operations.
- All manuals and procedures will need to be revised.

ADVANTAGES: Lease

Same as purchase with additional advantages listed below.

No additional space for long term storage.

Will assist with training.

Includes all maintenance costs.

Includes all delivery and pickup costs.

Have an on site project manager.

DISADVANTAGES: Lease

Logic and accuracy testing will be slightly increased.

BRC system and our present computer system will not communicate without a translation program being developed, so it is possible County would be supporting two (2) systems.

Would need off site secured storage.

Ballot size varies. More warehouse storage space would be necessary. In large elections unvoted ballots would need three times as much storage space. Voted ballots would require six times as much storage space.

More space required for storage of unvoted and returned voted absentee ballots.

Concern over loss of quality control of precinct supplies including ballots.

Security during canvass is greatly increased due to change in the size of ballots.

Faster results will require double mileage, increased number of precinct officers or number of hours all personnel work election night.

Supplies would need to be modified, especially in absentee and precinct operations.

All manuals and procedures will need to be revised.

COST ESTIMATES:

See Attachment C

FROM: Steve Thayne - Vice President, Sales, BRC

LEASE:

Ball park figure--\$1.2 million per year.
 \$7,400,000.00 worth of equipment for six years.
 900 Optech III-P units for precincts.
 4-Optech IV-C units for ballot counting.
 Storage, maintenance, training.
 Delivery, pickup, project manager software.

	<u>LEASE</u>	<u>PURCHASE</u>
Optech III-P - Each unit	(\$1.2 Million	\$7,500
Optech IV-C - Each unit	Annually)	\$70,000

INFORMATION FROM OTHER COUNTIES:

Amador County - Cost Estimates June 2, 1992 Primary Election
 Voting Precincts---28
 Registration -----17,600

<u>ITEM</u>	<u>EACH</u>
Official Ballots	.45
Secrecy folder	.65
Outgoing	.13
Returned AV	.24
Ballot seals	.77
Pencils 60/1000	.06

Ballot box and memory pack.
 (Memory Pack needs reprogramming each election)

Sacramento County--June 2, 1992 Primary Election
 Voting Precincts---888
 Registration-----629,200
 Ballot Types-----75



ATTACHMENT C

ATTACHMENT 1 (Cont.)

Page 16 of 20

Business Records Corporation

1001 EASTSHORE HIGHWAY BERKELEY, CALIFORNIA 94710-1091 (510) 527-5150 FAX (510) 528-2319

M E M O R A N D U M

TO: Ida
FROM: Steve Thayne *ST*
DATE: January 25, 1993
SUBJECT: Optech Units

VIA FACSIMILE
(916) 366-4116

The published list purchase price for the Optech units that you asked about are:

Optech III-P Eagle	\$ 7,500
Optech IV-C	\$70,000

The ballpark figure previously provided of \$1,200,000 annually for a six year agreement includes:

950	Optech III-P Eagle Units
4	Optech IV-C Units
	Support
	Installation
	Delivery and Pick-up
	Storage
	Maintenance
	On-site support
	Project Manager
	Software Licenses
	Supplies

This is an optical scanning system using paper ballots 8 1/2 x 17 with a 3" stub at the bottom of the ballot. The actual voting area of the ballot is 8 1/2 x 14. This is a marking system. Each voting position will have an oval to mark with a #2 pencil to select the voters choice. Has a ballot punch capacity of 216.

ADVANTAGES:

Names of candidates and measures are on ballot card.

All booths are generic. The generic effect accommodates all parties in a primary election.

Logic & accuracy testing methods will meet state requirements.

Election night performance is guaranteed.

A five year warranty is provided, no monthly service charge, and continual automatic upgrades.

AIS designers maintain the equipment.

Design of ballot card eliminates production of Header Cards.

Problem ballots can be run independently of previously counted ballots.

Write-In votes - the machine pauses and they are handled individually.

The AIS machine reads 15,000 ballots per hour (actually 9,000).

The vote counting results can be put onto a disk and transferred to a PC for reports and scrolling for TV to display results.

Saves data entry time following the election for voter history.

Absentee ballots would not need to be separated before counting. As the absentee ballots are run, the results will be shown per precinct.

Each machine has its own power regulator.

There is an accumulation programming package that will fulfill the needs for the "STATEMENT OF THE VOTE". This will be created on the PC.

The PC also does recaps.

We can rent more machines if needed for an election.

It is compatible with a PC network system.

Can give us the option of remote counting sites on election night.

Minimum amount of duplicating needed.

Could omit sending Sample Ballot with Absentee ballot package.

Demonstration of marking ballot at precinct easier.

DISADVANTAGES:

System is not compatible with our present computer system.

Limited amount of voting positions available. If exceeded a second ballot would increase the cost.

Supplies would need to be modified, especially in absentee and precinct operations.

All manuals and procedures will need to be revised and both training tapes would need to be completely refilmed. This will cost approximately \$5,000.

Will need secrecy sleeves. This would be an added expense.

Printers must be certified by the Secretary of State. At present there are no certified printers in the State of California.

Ballots can only be read in one orientation.

Optical scan has limited capabilities.

If selected, Sacramento County would be a Beta Site in California.

The additional storage space required for AIS equipment is 1000 square feet. Unvoted and voted ballots will require three (3) to six (6) times the warehouse space.

Would need off site secured storage.

Security during canvass is greatly increased due to change in size of ballots.

**COST
ESTIMATES:**

Cost per machine is \$48,500 to purchase. A county of 350,000 voters uses eight machines. Sacramento County has 650,000 voters and would require twelve machines.

It cost about \$.25 per ballot for printing. Due to leeway given to reproduction, local printers could be certified for ballot printing. At present there are no certified printers in the State of California.

Initial set up costs are \$16,500.

Three, five, and seven year leases are available, with options. This is a one time expense.

A set of ballot cards is issued to each voter. All candidates and measures are printed on the front and back of ballot cards. Several cards are needed to suit all ballot races. Has a ballot capacity of 52 per card, 26 on each side.

ADVANTAGES:

Names of candidates and measures are on the ballot card.

Existing equipment could be used for this system.

Could omit sending Sample Ballots with Absentee ballot package.

This system will handle minor parties in primary elections.

Compatible with DFM and DIMS computer systems.

Card readers stop on a ballot with a write-in if the arrow is filled in.

An audit trail can be followed if a recount is called.

DISADVANTAGES:

Logic and Accuracy testing must be extended due to the large volume of ballot cards required in the Multi Card System.

Requires additional card readers to accommodate additional volumes of ballot cards. Counting the ballots election night will take longer because of the multiple cards used.

Quality and accuracy is diminished by repeated testing.

Additional storage space will be required for extra card readers. Unvoted and voted ballots will require three to six times the warehouse space.

Due to the weight of the ballots, precinct delivery will require a hauling company. Based on present costs, delivery would be approximately \$24,000.

Each ballot type could have from seven (7) to ten (10) ballot cards issued per voter.

One spoiled ballot card in the set issued requires issuing a complete new set of ballots must be issued to the voter.

If the election goes over six cards the price doubles because of set-up charges.

Extends the time for the "Canvass of the Vote" to do a manual count, all ballots in a precinct need to be sorted by card "types" (A,B,C etc).

Precinct officers would take additional time in a primary election to separate ballots by party. We need to account for seven (7) parties, times the multiple of ballot cards issued.

Will need to send special #2 pencil out with absentee ballots.

Both Precinct Officer Training Tapes would need to be refilmed at a cost approximately \$5,000.

Supplies would need to be modified, especially in absentee and precinct operations.

All manuals and procedures will need to be revised.

COST
ESTIMATES: SEE BELOW

INFORMATION
FROM OTHER
COUNTIES:

San Joaquin County--Cost Estimation November 3, 1992
Voting Precincts-----513
Registration -----230,858
Ballot Types-----95

ITEM	QUANTITY	UNIT PRICE	PRICE
BALLOTS			
1a Set up charge per side of ballot	107	100.00 ea	\$10,700.00
1b Set up charge per side of ballot-remake	1	50.00 ea	50.00
2a Setup charge per ballot group-original Bts	95	100.00 ea	9,500.00
2b Setup charge per ballot group-F cards BT 1-8	8	100.00 ea	800.00
2c Setup charge per ballot group-add AV + prec	24	100.00 ea	2,400.00
2d setup charge per ballot group-f cards for addl AV + Prec	5	100.00 ea	500.00
3 Running charges per 1000 cards	1,405.505	73.000/m	102,601.87
4 Test cards per ballot type	95	25.00 ea	2,375.00
5 Merging A B C D E cards with F cards	162	10.00 prec+AV	1,620.00

TOTAL COST **\$130,546.87**

Sacramento County--November 3, 1992 General Election
Voting Precincts---884
Registration-----608,903
Ballot Types-----211

COUNTY OF SACRAMENTO
CALIFORNIA

For Agenda of: February 25, 1992

TO: Board of Supervisors
FROM: Ernest R. Hawkins
Registrar of Voters
SUBJECT: USE OF POLL STAR VOTING SYSTEM

RECOMMENDATION

Approve the use of the Poll Star Voting System in Sacramento County.

DISCUSSION

This request is in conformance with the County Executive's directive to seek ways to reduce costs.

On February 3, 1992, the Secretary of State certified Poll Star, a new voting system, for use in California elections. I would like to use Poll Star on a trial basis for the election scheduled on April 14, 1992, and for future elections if the initial use meets my expectations. The vendor, Election Data Services, will provide Poll Star at no cost to Sacramento County for the April 14, 1992, election.

Since July, 1969, Sacramento County has been using the Votomatic voting system, which requires the official ballot to be printed on pages hinged in a housing unit. Attachment A illustrates the current Votomatic system.

The Poll Star system also uses a punchcard and a housing unit. The offices and questions and their corresponding numbers, instead of on hinged pages, are printed on a separate sheet of paper or in a booklet. Those numbers are repeated on strips of plastic, which are sealed with the Poll Star housing unit. The voter inserts the ballot into the housing unit, selects the number of his or her choices, and punches out those numbers on the punchcard ballot.

Board of Supervisors

Page 3

COSTS

The initial cost of converting to Poll Star is \$100,000 (8,000 units at \$12.50 each), interest-free and payable in four equal payments over a three year period. The vendor has agreed to take Votomatic materials, supplies and equipment in trade. They will also provide a two year warranty on the Poll Star equipment. If the Secretary of State requires any modifications to the system during the warranty period, the vendor will make those modifications without charge to Sacramento County.

No additional appropriation will be necessary. I anticipate spending approximately \$4,300 less than is budgeted for 1991-92. If any of the minor parties prevail in a lawsuit or if I exceed ballot capacity, I would require between \$379,000 and \$1,500,000, in additional funding for 1992-93, depending on the number of additional voting booths and supplies purchased. These additional funds would not be needed using the Poll Star system. In 1992-93 and subsequent years, a net reduction of approximately \$20,000 should be realized. Beginning in FY 1995-96, net savings should be \$45,000.

Respectfully submitted,



Ernest R. Hawkins
Registrar of Voters

Gary Cassady
Chief Deputy County Executive

Bob Smith
County Executive

Attachments

COUNTY OF SACRAMENTO
CALIFORNIAFor Agenda of: July 14, 1992
10:15 a.m.

TO: Board of Supervisors

FROM: Ernest R. Hawkins
Registrar of Voters

SUBJECT: CONTINUED USE OF POLL STAR VOTING SYSTEM

RECOMMENDATION

Approve the continued use of the Poll Star Voting System in Sacramento County by the Registrar of Voters.

BACKGROUND

On February 25, 1992, your Board approved, at my request, the provisional use of the Poll Star Voting System in Sacramento County. Poll Star has since been used in five elections: four separate special elections on April 14, 1992 and the Presidential Primary Election on June 2, 1992. This report summarizes its use in elections since your approval.

The April 14th elections were successfully administered with Poll Star. Most poll workers and voters responded favorably to it and encouraged its continued use in future elections. Most voters feel that it is easy to use, once its operation is understood. Poll workers recommended that voters be encouraged to mark their choices on the sample ballot at home and then bring it to the polls on election day. A summary of comments received from the April elections is behind Tab I.

Following the April elections, the Secretary of State recommended that I generate more publicity on Poll Star before the Primary election in an effort to educate voters on its use. The League of Women Voters agreed to demonstrate Poll Star at various locations throughout the county, in conjunction with their voter registration drive. I also placed a demonstrator Poll Star unit in each library branch and issued a news release encouraging voters to try using it.

As a result of the positive experience with the April elections, I decided to use Poll Star in the June Primary election. Some of the problems that occurred in this election were widely reported in the media. Copies of news articles and "Letters to the Editor" are included behind Tab II. I advised your Board of these problems in an informational memorandum, dated June 3, 1992, a copy of which is included behind Tab III.

Board of Supervisors
Page 2

DISCUSSION

The success of Poll Star in our test was dependent on the use of the sample ballot. Voters were strongly encouraged to bring their own sample ballot with them to vote. In addition, polling places were supplied with a sufficient number of sample ballots for use by voters who did not bring theirs. The problems (and solutions) associated with the use of sample ballots are as follows:

1. A few copies of incorrect sample ballots were erroneously delivered to four polling places. Some voters in those precincts voted using the incorrect sample ballot.

A review of internal procedures revealed that more than one employee was responsible for controlling and distributing sample ballots. I have revised the procedures and assigned one employee with the responsibility for controlling sample ballots from the time they are delivered to my warehouse until they are distributed to polling places or to the absentee voting unit.

2. At one polling place, some voters were mailed the incorrect sample ballot and took it to the polling place to vote. As indicated in my earlier memorandum, I had a courier deliver their correct sample ballot to them and they voted by absentee ballot. However, some ballots were dropped into the ballot box where the voter used the wrong sample ballot.

I contracted with a firm to print sample ballots, which sub-contracted with a second firm to label and mail sample ballots. I have had lengthy discussions with both firms on how to avoid this and similar problems in the future. Both of these firms and my staff are reviewing enhanced quality control procedures.

3. I received some complaints from voters who claimed to have been given the incorrect sample ballot by a precinct official at their polling place. I had the supplies for those precincts thoroughly examined, but found no evidence that an incorrect sample ballot had been delivered to these polling places. Possibly, an incorrect sample ballot had been brought into the polling place by a voter and left there, where it was subsequently used by one or more voters for voting.

These incidents were isolated, but still very unfortunate. In future elections voters will be told that they do not need their sample ballot to vote. I will instead use a listing with candidates and issues on it, which will be placed in every voting booth. There will be a prominent notice in the sample ballot, advising voters to compare the ballot type number on their sample ballot with the ballot type number used in that polling place. If there is a difference, voters will be asked not to vote but instead to notify the polling place official. This will help those who use their sample ballot to vote. See Tab IV for a draft copy of the letter that will appear in the sample ballot regarding this change.

Board of Supervisors
Page 3

For the Primary election, poll workers were instructed to provide a questionnaire on Poll Star to voters and to return their completed questionnaires to me. A copy of the questionnaire is behind Tab V. The results of the two most important questions are:

"Do you see any difference in this system compared with how you voted in the past?"

Total responses	18,401
Yes	11,726 (63.7%)
No	6,675 (36.3%)

"Did you find Poll Star easy to use?"

Total responses	16,455
Yes	13,426 (81.6%)
No	3,029 (18.4%)

In addition to the questionnaire, I received thoughtful letters from several voters with their views on Poll Star. I have included some of these letters behind Tab VI.

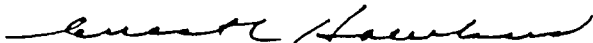
I also received a letter from Senator Patrick Johnston, asking me to investigate a complaint from a constituent couple who had a problem with Poll Star. Senator Johnston's letter and my response to him are included behind Tab VII.

CONCLUSION

Most of the problems associated with Poll Star resulted from procedural errors, not from a failure of the system. If your Board authorizes continued use of Poll Star, my procedures, as noted in this memo, will be modified to help ensure that the problems I have identified will not occur in future elections.

I believe Poll Star is a viable system that will save taxpayers money in both the short and long terms, and will not compromise the integrity of elections. I recommend that your Board authorize its continued use in elections administered in Sacramento County.

Respectfully submitted,



Ernest R. Hawkins
Registrar of Voters

Gary Cassady
Chief Deputy County Executive

BOB SMITH
County Executive

Attachments

THE SACRAMENTO BEE
JUNE 2, 1992

Voting by numbers

Sacramento County voters going to the polls for Tuesday's election are in for a nasty and unnecessary surprise: They won't be voting for candidates and propositions, but for numbers.

As a cost-saving measure, the county registrar of voters has purchased a new voting system for polling places. The voting machine used in the new Poll Star Voting System is a lot like the one used in past elections, with a computer punch card inserted into a housing. Where it differs is in the attached ballot booklet.

In past elections, the attached pages listed the candidates and the office for which they were running. To vote for a candidate or proposition, voters would simply punch the hole next to their choices. But under the new system, the booklet lists not names, but numbers. To vote for a candidate, voters must find that candidate's name on a separate sample ballot, identify the number for that candidate, then locate and punch out that number on the voting machine.

For many voters, that will be only a mildly annoying test of mental dexterity. But for others, whether they are intimidated by numbers, have poor eyesight or just are creatures of habit, the new system is likely to be frustrating. And the last thing California needs is more frustrated voters.

It's nice that the registrar wants to save money. The new system will save the county \$20,000 a year over the next few years and will eliminate other costs that might have arisen from the longer ballots caused by putting municipal elections into the even-numbered years. But efficiency, when carried to extremes, can become a vice.

Keeping down the cost of government's task is important, but so is being friendly to citizens, in the way good businesses try to accommodate customers. That ought to be true especially at the voting booth, where government gets its marching orders from those it serves.

Voting blind

Let's see. If this is Proposition 159 then I want to punch number 212 on the ballot. But there isn't any such number on the next page of this thing. Oh, wait a minute, there it is, three pages further on, and . . . nuts, now I've dropped the sample ballot that's the only thing in the whole polling station that can tell me what is actually up for a vote this year.

The vote-by-the-numbers system that Sacramento has been trying out for the last two elections would present a formidable challenge to anyone with excellent eyesight, a complete command of English, steady hands and good coordination. For everyone else, it is a serious obstacle to the exercise of the fundamental right to vote.

The system is cumbersome, confusing and almost guaranteed to increase the number of

mistakes voters will make inadvertently in trying to cast their ballots. Ernest Hawkins, Sacramento County's registrar of voters, devoted two full pages in the sample ballots he mailed out this election to trying to persuade the public that the new system is really a good idea. But his arguments are unpersuasive and that's putting it charitably.

The savings he claims it will produce are slight. The benefits he attributes to its adoption weigh heaviest on the side of bureaucratic convenience. And none of it justifies the difficulty each voter faces in trying to make this poorly designed system work at all.

Fortunately, Hawkins continues to describe this misadventure as an experiment. Fine. Let's declare the experiment over and go back to a ballot that once again will let us see what we're voting on.

SACRAMENTO BEE

11-6-92

MARCH 4, 1993

SACRAMENTO BEE	<input checked="" type="checkbox"/>
SACRAMENTO UNION	<input type="checkbox"/>
DAILY RECORDER	<input type="checkbox"/>
OTHER	<input type="checkbox"/>

Sacramento Bee March 4, 1993
Editorial

No. 6 won

There was an election for the Sacramento City Council in District Five this week. No. 6 won. That's who more voters picked than anyone else. In Sacramento, we don't vote for candidates by name anymore - only numbers. The registrar of voters calls that cost-cutting.

In District Five, for example, voters were presented with a blank ballot with 26 numbered spaces on it. They had to pick one. But only six of those numbers were actually hooked up to candidates. And not the first six, of course; that would make it too easy.

Instead, to have their votes recorded, people had to pick a number from 6 to 11. Except that No. 10 didn't count either because the candidate associated with that blank space on the ballot had already dropped out. Think of it as the equivalent of rolling snake eyes.

If you didn't have a number in mind when you checked into the polling station, you could always figure out whom you were voting for by bringing a note from home or by borrowing a copy of the sample ballot from

election officials. Then all you had to do was translate the names in the book into numbers on the ballot, find the right space among the blanks, and hope you hit the target just right with your stylus. But if your hands shake, or your eyesight isn't too sharp, or you don't speak English well enough to follow all the instructions, or if you're just easily intimidated by too much bureaucratic bumfog, you could lose out.

There is an advantage to this system as opposed to voting the way most of the rest of America exercises the franchise. With all of those extra spaces, you get lots of opportunities to vote for none of the above - or none of the below, depending on which blank space you pick. Unfortunately, the registrar doesn't report how many people voted for No. 23 in District Five. Also unknown is how many people mistakenly voted for someone they didn't mean to support, and how many more were discouraged from voting at all by a system that makes casting a ballot far more difficult than it needs to be.

Appendix 7

Planning and Evaluation in the Selection of a DRE Voting System

Registrar
Clark County
Nevada

Plan for an Electronic Voting Machine Pilot Program - 1994 Primary and General Elections

Issue Statement:

At its November 16, 1993, meeting, the Board of County Commissioners unanimously approved a pilot program to introduce electronic voting machines for use on a limited basis during the 1994 Primary and General Elections. As part of the motion approving this program, the Board directed staff to invite the participation of representatives from the Republican, Democratic and Libertarian parties, as well as the League of Women Voters, in formulating a plan for the pilot program to be presented to the Board at its next meeting.

Summary:

As directed by the Board of County Commissioners, Election Department staff attempted to contact representatives from the Republican, Democratic and Libertarian parties and the League of Women Voters to invite their participation in a planning session for an electronic voting system for Clark County. Certified letters of invitation were mailed and telephone calls were made to those organizations.

The planning session was held on November 22, 1993, at 9:30 a.m., at the Election Department. Representing the Clark County Democratic Party were Gary Gilgan and Michael Jolls; representing the Republican party were George Harris and Stephanie Lagan. Tamara Clark of the Libertarian Party did not attend, although she had agreed to participate and in fact had called immediately prior to the meeting to indicate she was en route; however, she never arrived. Representatives from the League of Women Voters also did not attend the meeting. Registrar of Voters Kathryn Ferguson subsequently scheduled a meeting with representatives of the League inasmuch as staff believed it was important to provide this organization with a summary of the planning session and receive the League's input as well. Ms. Ferguson also agreed to conduct a special meeting specifically for Tamara Clark to ensure the Libertarian Party's input into the process.

Page Two

Staff members present at the meeting were Dale Askew, Assistant County Manager; Kathryn Ferguson, Registrar of Voters; Steve Chapin, Director of Information Systems; Earl Hawkes, Director of General Services; Veronica Perez, Assistant Registrar of Voters; Bernie Matsko, Information Systems Department Manager of Election Computer Applications; Greg Bateman, Election Department Systems Coordinator; and Steve Wright, Management Analyst II for the Election Department.

To begin the proceedings, Dale Askew provided a brief overview of the direction given to staff by the Board of County Commissioners. Kathryn Ferguson followed with a brief comparison of the various Direct Recording Entry electronic voting machines available on the market. Any machine selected for the pilot program must be certified by the Secretary of State of Nevada for use in all elections. Of the systems previously reviewed, Ms. Ferguson told the group that vendor Unilect had applied for certification for its paging electronic voting machine but had not yet been granted certification. She further explained that per the most recent communication from the Secretary of State's office, the vendor Microvote had not yet applied for certification of its paging electronic voting machine. The Sequoia Pacific AVC Advantage voting machine is the only electronic voting machine certified in the State.

Steve Chapin and Kathryn Ferguson explained the six basic requirements established by the Election Selection and Procurement Task Force and used in the identification of a suitable vendor for Clark County. The AVC Advantage system was discussed, as was the fact that this system met all six of the requirements. Other benefits of the AVC Advantage system were outlined, including Sequoia's history of conducting punch card elections and its ability to integrate both the punch card ballots and the electronic ballots from the pilot program. This capability eliminates unnecessary duplication of efforts on the part of Election Department and ISD staff members when the electronic voting pilot program is implemented during the 1994 Primary and General Elections.

Republican Chairman George Harris expressed his support for the Sequoia Pacific AVC Advantage voting machine recommended to the Board of County Commissioners for purchase. He stated that he had met with the handful of citizens opposing the purchase and reviewed their claims and concerns and found them to be fundamentally insupportable. Mr. Harris further stated that he had sought and received input from knowledgeable officials in various states and had reviewed numerous sources of documentation with regard to both the AVC Advantage and other electronic voting machines. His stated opinion was that the AVC Advantage is an excellent voting machine that will serve the needs of Clark County well.

Although Democratic Chairman Paul Yates was unable to attend the planning session, he had previously expressed to staff his support of the AVC Advantage voting machine. Gary Gilgan and Michael Jolls, of the Democratic Party, asked numerous technical and administrative questions with regard to the voting machine. These questions were answered not only by the staff members in attendance, but also through actual "hands on" experience of voting on the machine, deselecting candidates, and printing and viewing reports.

Page Three

Party representatives unanimously supported staff's selection of the Sequoia Pacific AVC Advantage voting machine for use in the pilot program and it was decided that a performance based contract should be utilized in purchasing the voting machines. Such an approach would allow the County to return the machines to Sequoia Pacific for a complete refund if they failed to meet specified performance criteria during the course of the pilot program. A general discussion of the types of performance criteria that should be included followed, with the specifics to be determined by the Registrar and Assistant Registrar of Voters and the ISD Director and Elections Systems Manager. It was further agreed that all necessary software and on-site technical support should be provided by Sequoia Pacific free of charge for the duration of the pilot program.

A discussion of the public perception of the election system and in particular electronic voting took place. It was the party representatives' strong belief that an aggressive public relations campaign should be conducted to encourage community acceptance of electronic voting and to maximize participation in the pilot program. The political parties recommended that the County solicit the assistance of several local advertising agencies to perform pro bono work. The agencies could inform the public about the benefits of electronic voting and work closely with the Election Department to develop educational and instructional videos and polling instruments. During an informational outreach phase, a voting machine could be taken to various shopping malls, community centers, senior citizen centers and other public gathering places, where it could be demonstrated and set up for voting. The ballot survey questions could ask voters to rate their experience and impressions of actually voting on the machine, as well as various features of the machine. The results of these surveys would be compiled and included as part of the overall evaluation of the program.

Also, the political party representatives recommended that a focus group, composed of a random sampling of some 450 prospective voters of the area targeted by the pilot program, be selected and their responses to the voting experience be tracked throughout the process. It was agreed that a positive public relations campaign to present the benefits of implementing the new voting system would benefit the community, candidates and participating public relations firms. Moreover, it would work to restore confidence in the overall election process. The party representatives agreed to assist the County in these efforts.

The final issue to be addressed was that of selecting a particular assembly district in which to conduct the pilot program during the 1994 Primary and General Elections. Election Department staff had performed a preliminary analysis of Assembly District 6, due to the great extent of voter fall-off occurring in the races toward the end of the ballot in this district during the 1992 Elections. In addition, staff was seeking a statistically significant cross-section of voters, as Commissioner Woodbury had indicated a preference for such a sampling during his motion to the Board. The small number of required voting machines was also a desirable characteristic of District 6. After discussion with the parties, however, it was decided that this was not an optimal choice because voters in this district are not equitably distributed among the various political parties.

Page Four

The political party representatives agreed upon Assembly District 2 as their preferred choice for the pilot program because it is a very balanced district with regard to political party representation among registered voters. Staff subsequently worked up the required number of machines for Assembly District 2. In addition, they worked up figures for Assembly District 17, which is similar to District 2 with regard to party representation but would require fewer machines for project implementation. It should be noted that limiting the pilot project to use in a specific Assembly District results in an under-utilization of the capabilities of the AVC. Therefore, these machine requirement numbers for individual Assembly Districts cannot be extrapolated to render a total number of machines required to service the entire County under normal election conditions.

This planning session was comprehensive, productive and positive. Representatives from both major political parties offered their complete assistance in making the pilot program a success. They expressed their support for the Election Department's efforts and direction, as well as the Board's prudence in proceeding with a limited pilot program before moving to purchase a Countywide system. Constructive feedback was provided to staff regarding the selection process. Staff also informed the party representatives of their longstanding plans to review and evaluate the punch card election procedures of larger jurisdictions and to update current County procedures where appropriate. The meeting ended on a very positive note, with participants looking forward to their continued participation in the implementation of this pilot project in Clark County.

AVC Electronic Voting Machine Performance

On November 16, 1993, the Clark County Board of Commissioners voted unanimously to conduct a pilot program to introduce electronic voting to the County on a limited basis during the 1994 Primary and General Elections in order to determine its suitability for implementation Countywide. The resulting contract with Sequoia Pacific was performance based, focusing on the areas of voter approval, ease of voting, ease of administration, accuracy, and reliability. The AVC voting machines received a high approval rating by participating voters and performed successfully in all areas.

The pilot project approved by the Board to introduce electronic voting to Clark County on a limited basis during the 1994 Primary and General Elections was a success. The contract was performance based, stipulating requirements in the areas of voter approval, ease of voting, ease of administration, accuracy, and reliability. Although the contract pertained only to the Primary Election, the machine performance and voter reaction was additionally monitored during the General Election as well in order to provide more data in determining the suitability of this product for use in Clark County. The evidence strongly supports the conclusion to move forward to purchase the AVC's for use Countywide.

Voter satisfaction with the voting process on the electronic machines was one of the most important pilot project evaluation criteria. The League of Women Voters and other volunteers conducted a survey of Assembly District 22 voters who voted on the AVC electronic machines during the Primary Election. Seven thousand two hundred and eighty-six individuals voted of which eighty-two percent (5,981) participated in the survey. The results indicate that 95% of the voters responded favorably, 3% responded neutrally, and 2% responded negatively. This survey yields a very high overall approval rating of the AVC Advantage voting machines. The response of voters during the General Election was similarly favorable. Surveys of poll workers' satisfaction and of ease of opening and closing the polls in both elections yielded highly favorable results as well.

Voting machine trouble calls were placed to the machine hot line from the polls on Primary Election day. All calls were addressed through repair, education, or procedure. All but one repair was done within 10 minutes of the arrival of the repair technician. All machines were operating at 7:00 a.m. and all were operating at the close of polls at 7:00 p.m. It is interesting to note that there were no problems with the closing of the machines during this first time usage. The call logs show that the only significant hardware concern was overly sensitive operator control panels. After the Primary Election the manufacturer made hardware adjustments to correct the control panel problem. This problem did not reoccur in the General Election. Research with Sequoia Pacific's customer base indicates this is standard operating procedure. In addition, customers have commented that with each ensuing election the process goes more smoothly, as voters, election workers, contractors, and administrators become better acquainted with the machine.

The only negative report during the General Election involved lines which formed at some precincts on election day. This was mainly attributable to the length and complexity of the ballot, which contained some 104 different races and up to 14 lengthy questions. An additional complicating factor was the posting of the full explanations of all questions inside each voting booth. This tended to keep voters in the booth for longer periods of time, especially in the total privacy environment of the AVC. The newness of the machine to most voters was another factor that added extra minutes to the voting process. This will diminish considerably with each successive election.

Page 2

Comparing the polling place exception logs kept by poll workers for each precinct between the Primary and General elections clearly demonstrates that education and familiarity made a difference in any perceived problems with the machine. Considering that this was the first time usage in a move from paper ballots to fully electronic voting, both voters and pollworkers made the transition quite easily. With the limited resources directed to this project, especially with regard to pollworker training, and considering that the primary focus was on the punch card system, it is impressive that the first time implementation of electronic voting was this successful. The machine proved so simple to program that Election Department staff was able, after minimal exposure during the Primary election cycle, to set up the General Election ballot on the AVC's without the benefit of formal training or vendor assistance. Much was learned from this pilot project and, based on this experience, staff will be developing an implementation plan for a smooth and very successful 1996 election cycle.

Appendix 8

Sole Source Procurement Justification memo and Contract for a PC-based Tabulation Network System

Supervisor of Elections
Metro-Dade County
Florida

Agenda
3-20-90

No. 5(e)(2)

RESOLUTION NO. R-213-90

RESOLUTION APPROVING WAIVER OF FORMAL BID PROCEDURES AND AUTHORIZING EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH KENNETH P. HAZLETT FOR THE DEVELOPMENT AND MAINTENANCE OF A PERSONAL COMPUTER ELECTION TABULATION NETWORK SYSTEM PROGRAM.

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DADE COUNTY, FLORIDA, that this Board finds it in the best interest of the County to waive formal bid procedures and to authorize the County Manager to enter into a Professional Services Agreement with Kenneth P. Hazlett to develop and maintain a personal computer election tabulation network system program in the amount not to exceed \$76,900, formal bidding being waived in this instance pursuant to Section 4.03(D) of the Home Rule charter by two-thirds (2/3) vote of the Board members present.

The foregoing resolution was offered by Commissioner
Jorge E. Valdes who voted its adoption.

The motion was seconded by Commissioner
and upon being put to a vote, the vote was as follows:

- | | |
|--------------------|--------|
| Barbara M. Carey | aye |
| Charles Dusseau | aye |
| Joseph M. Gersten | absent |
| Larry Hawkins | aye |
| Harvey Ruvin | absent |
| Barry D. Schreiber | aye |
| Jorge E. Valdes | aye |
| Sherman S. Winn | aye |
| Stephen P. Clark | aye |

Agenda Item No. 5(e)(2)

TO Honorable Mayor and Members
Board of County Commissioners
Joaquín G. Aviñó

DATE March 20, 1990

FROM Joaquín G. Aviñó, P.E., P.L.S.
County Manager

SUBJECT WAIVER OF FORMAL BID FOR
COMPUTER TABULATION
PROGRAM

Recommendation

It is recommended that the Board approve a waiver of formal bid procedures and authorize the County Manager to enter into a Professional Services Agreement with Kenneth P. Hazlett in the amount not to exceed \$76,900.00 to develop and maintain a personal computer election tabulation network system program.

Background

The County's current tabulation equipment, purchased in 1977, is becoming increasingly more difficult to keep operational due to age. As a result, the goal of producing final results by midnight is rarely achieved. In addition, our current tabulation system is so complex that it is virtually impossible to explain it to candidates, the news media, and the public in order to gain their confidence that votes are counted accurately and without outside manipulation. Coopers & Lybrand, in their audit report of the 1988 General Election, stated that the County's tabulation equipment is antiquated and recommended that a more modern technology be investigated which would lessen or eliminate the susceptibility to delays in processing caused by volume, ballot handling, and weather conditions.

A committee, chaired by Assistant County Manager J. A. Ojeda, Jr., and composed of the directors of Elections, O.C.S.I.S., Management and Budget, and Internal Auditing, has been studying the feasibility of replacing the County's tabulation system since 1987. It is the opinion of the committee, based on their review of the tabulation systems currently in use throughout the country, that a personal computer election tabulation network system would best meet the needs of Dade County. Since there is no personal computer tabulation system on the market which contains the enhancements that have been made to the County's existing system, the committee recommended that Mr. Kenneth P. Hazlett, who developed the municipal personal computer system recently purchased by Dade County, be contracted with to develop and maintain the countywide system. Mr. Hazlett has been determined to be the only individual with the knowledge and expertise required to expand the municipal personal computer system into a networking system for use in tabulating countywide elections. The ADP Policy Committee concurs with this recommendation.

Honorable Mayor and Members
Board of County Commissioners
Page 2

Mr. Kenneth Hazlett is a recognized expert in the field of ballot tabulation systems. He has authored and produced numerous ballot tabulation programs since 1964, many of which are still being utilized throughout the country. Mr. Hazlett created the Ballot Multiplexor System currently used by Dade County.

The equipment needed for the personal computer election tabulation network system, at a cost of \$94,000, will be purchased under separate contract.

The personal computer election tabulation network system, when completed, must be tested and certified by the State Division of Elections before it can be used in an election.

This item was reviewed and approved by the Internal Management/Tourism Committee at their meeting on February 27, 1990.

AGREEMENT

THIS AGREEMENT entered into as of the 20 day of March 1990, by and between Metropolitan Dade County, Florida, a political subdivision of the State of Florida, (hereinafter referred to as the "COUNTY"), and Kenneth P. Hazlett (hereinafter referred to as the "SERVICE PROVIDER").

WITNESSETH:

WHEREAS, the COUNTY is desirous of obtaining a new personal computer based Election Tabulation Network System (ETNet), and

WHEREAS, the SERVICE PROVIDER, is the only individual who is both qualified and experienced in the development of the software that is necessary to complete the personal computer network that will be used to tabulate election results.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants herein contained, the parties hereto agree as follows:

ARTICLE I

Responsibility of the SERVICE PROVIDER

The SERVICE PROVIDER shall:

1. Complete and deliver by April 1, 1990, Module 1, a Ballot Definition Subsystem, which will include the following:
 - A. A capability to input election data, such as registration information, ballot information, precinct information, ballot position numbers, and control data, in accordance with the recommendations of the user department and the requirements of State Law.

- B. The ability to incorporate available precinct and registration data from the Office of Computer Services and Information Systems (OCSIS) host files. A methodology to incorporate such data will be mutually developed by the vendor and OCSIS.
 - C. An option for data creation through keyboard input, or for direct input from ballot page program files, when available.
 - D. Ballot definition specification reports, by style, area, and page.
2. Complete and deliver Module 2, a Reader/Workstation Subsystem by April 1, 1990, that will include the following:
- A. A program that will permit identification of precincts by header cards; comparison of registration counts with ballots cast; and a precinct status message, if appropriate, for precincts previously read.
 - B. The Reader/Workstation program will have both keyboard and control card options for the cancellation or acceptance of precinct counts. The Reader/Workstation screens will also provide information on the status of the reader.
 - C. The Reader/Workstation software will permit the counting of ballot cards for the purpose of vote identification at speed specifications of 1000 cards a minute and have network connectivity.
3. Complete and deliver Module 3, a Tabulation Subsystem, by April 15, 1990, which will include the following:

- A. Software that will tabulate votes in accordance with the requirements and standards of State Law, and which will be so certified.
 - B. Options such as a shadow file for program backup as well as options for the management and reporting of the tabulation process as the County and State Law requires.
4. Complete and deliver Module 4, a Reconciliation Subsystem, by April 15, 1990, which will include:
 - A. A system that will also permit the entry and comparison of precinct accountability data, with the notation of exceptions.
5. Complete and deliver Module 5, a Reporting Subsystem, by April 30, 1990, which will include the following:
 - A. The capability to publish election results in print and electronic formats.
 - B. A capacity to generate other reports such as Canvass, Precinct by Precinct, Area, and Votes by Major Voter Groups.
6. The SERVICE PROVIDER shall provide both the County and the State with documentation that will meet the requirements of State Certification. This will include at a minimum a user guide or training manual and system documentation.
 7. The SERVICE PROVIDER shall provide the County and the State Division of Elections with a copy of all source codes.
 8. The SERVICE PROVIDER agrees that the completed ETNet system must operate in an IBM or compatible PC

environment, utilizing MS-DOS and OS/2 operating systems, and an IBM Token Ring network architecture.

9. The SERVICE PROVIDER agrees that a total payment for the development of the ETNet system shall be \$59,000.00, to be paid in increments of \$5,900 per completed module, up to \$29,500.00. The remaining \$29,500.00 shall be paid upon certification of the system by the State Division of Elections. At such time the system becomes the property of Dade County for its use and modification.
10. The certification of the system by the State Division of Elections is the responsibility of the SERVICE PROVIDER, as such, if certification is not obtained by the SERVICE PROVIDER it is agreed that the final payment of \$29,500.00 for system development will be withheld.
11. The SERVICE PROVIDER agrees that if certification by the State Division of Elections is not obtained by September 30, 1990, any other obligation by either party will be null and void.
12. In the event that the system is not certified by the State Division of Elections by September 30, 1990, the modules that are received and paid for become the property of Dade County for its use and/or modification.
13. The SERVICE PROVIDER agrees to continue maintenance of the system software through September 30, 1990. Thereafter, the SERVICE PROVIDER shall provide a maximum of 120 hours of programming for the system @ \$45 per hour, for a period not to exceed 12 months.
14. Additionally, the SERVICE PROVIDER agrees to be available to provide technical assistance as an Election's Department standby technician upon the request of the COUNTY, at a total cost not to exceed \$12,500.00, the first year, for not more than five elections.

ARTICLE II
Responsibilities of the County

The COUNTY shall:

1. Assign an Assistant Supervisor of Elections as the contract monitor, who shall:
 - A. Be the individual who is responsible for monitoring and evaluating the SERVICE PROVIDER's performance under the Terms and Conditions of this AGREEMENT.
 - B. Approve all payments to the SERVICE PROVIDER on the basis of properly submitted invoices for services rendered.
2. Acquire and supply all of the equipment that will be required to establish and test the ETNet system. This equipment will include, but is not necessarily limited to five (5) PC's, four (4) controller boards, a token ring connection and four (4) card readers.
3. Determine and test the communications specifications; install the hardware and develop the software program that will link the ETNet with the County's IBM 4341 teleprocessing system and or host computer.
4. Develop a program that will include a capacity to download precinct and registration information from the County's mainframe registration files for the purposes of ballot definition, according to the file specifications defined by the SERVICE PROVIDER.
5. Establish a communications protocol to accept election's results from the tabulation network for purposes of teleprocessing and report publication. The network-to-host communication will be established through mutually acceptable software protocols.

6. It is mutually agreed that this AGREEMENT excludes any hardware requirements for the system, as well as those items of software which are available under county contract.

ARTICLE III

Terms of Payment by the County

The County shall pay the SERVICE PROVIDER up to \$76,900.00 for the provision of the services described herein. This compensation shall be inclusive of all expenses and costs.

A payment totaling \$29,500.00 shall be made to the SERVICE PROVIDER for the development of the software and shall be made on the receipt of a status report and invoice for services rendered. Invoices for payment will be submitted at the completion of each of the separate modules defined in Article I, Sections 1, 2, 3, 4, 5. in the amount of \$5,900 per module.

A final payment of \$29,500.00 for the development of the system will be withheld until such time as the State of Florida, Division of Elections, certifies the ETNet system. The SERVICE PROVIDER understands and agrees that the balance will not be payable until such time as the State certifies ETNet and recognizes that payment is not due if the State does not certify the ETNet system, (reference Article I, sections 8, 9).

Payment for maintenance programming not to exceed \$5,400.00 will be made upon receipt of invoice for programming completed.

Payment for election standby technical assistance will be made upon receipt of invoice at a rate of \$2,500.00 per election and shall not exceed \$12,500.00 the first year.

ARTICLE IV

Proprietary Nature of Product

This AGREEMENT does not diminish the proprietary and copyrights of the SERVICE PROVIDER to any aspect of the ETNet system, with the exception of all customized references to the COUNTY, and subject to the requirements of the Florida Public Records Act.

The COUNTY shall have the right to modify and change the completed system to suit its own specifications. The COUNTY agrees that it will not reproduce the tabulation program for resale.

ARTICLE V

Indemnification

The SERVICE PROVIDER shall indemnify and save the COUNTY harmless from any all claims, liability, losses and causes of action which may arise out of the fulfillment of the AGREEMENT as a result of the SERVICE PROVIDER's acts of negligence or omission, or infringement of patents or copyrights. The SERVICE PROVIDER shall pay all claims and losses of any nature whatever in connection therewith, and shall defend all suits, in the name of the County when applicable, and shall pay all costs and judgements which may issue thereon.

ARTICLE VI

Professional Independence of the SERVICE PROVIDER

The SERVICE PROVIDER is, and shall remain, an independent professional with respect to all services performed under this AGREEMENT; he is not an agent, employee or representative of the COUNTY, nor does he have authority to act on behalf of the COUNTY or any of its agencies. No partnership relationship between the COUNTY and the SERVICE PROVIDER is created or intended by this AGREEMENT. No associate or employee of the

SERVICE PROVIDER shall be deemed to be an employee of the COUNTY for any purpose whatsoever.

ARTICLE VII

Assignment

This is a contract for unique personal services and the SERVICE PROVIDER'SS obligations hereunder are not assignable. The SERVICE PROVIDER shall not assign, transfer, pledge, hypothecate, surrender, or otherwise encumber or dispose of any of his rights under this contract, or any interest in any portion of same, without the prior written consent of the COUNTY.

ARTICLE VIII

Cancellation or Termination

Either party shall have the right to terminate this AGREEMENT, in whole or in part, upon 60 calendar days prior written notice by registered mail. In the event of cancellation of the contract by the COUNTY, the COUNTY agrees to reimburse the SERVICE PROVIDER for work performed, at a rate of \$45.00 per hour, but not to exceed \$5,900 for any single module. In the event of cancellation of the contract by the SERVICE PROVIDER, the conditions of Article I, Sections 10, 11, and 12 will apply.

ARTICLE IX

Conflict of Interest

The SERVICE PROVIDER agrees to abide and be governed by Dade County ordinances which may have a bearing on the services involved in this AGREEMENT, including, but not necessarily limited to, Section 2-11.1 of the Dade County Code (Conflict of Interest Ordinance), as amended. Copies of the Ordinances will be furnished to the SERVICE PROVIDER upon request.

ARTICLE X
Paragraph Headings

The paragraph headings appearing herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this AGREEMENT. No representations or warranties shall be binding upon either party unless expressed in writing herein.

ARTICLE XI
Modifications

This AGREEMENT may not be altered, changed or modified except by or with the written consent of the COUNTY and approved by appropriate action of the Board of County Commissioners.

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed by their respective and duly authorized officers the day and year first above written.

KENNETH P. HAZLETT

Gail McEwen
Witness

By: Kenneth P. Hazlett
Kenneth P. Hazlett

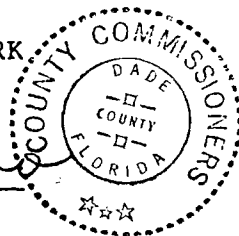
Emily A. Fily
Witness

ATTEST:

RICHARD P. BRINKER, CLERK

DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

By: Elizabeth Adorno
DEPUTY CLERK



By: J. P. Kelly, Jr.
County Manager

Appendix 9

Voting System Needs Analysis in a Small County

Election Director
Queen Anne's County
Maryland

**THE BOARD OF SUPERVISORS OF ELECTIONS
For Queen Anne's County
P.O. Box 274
Centreville, MD 21617**

December, 1995

**SHOUP MACHINES VS OPTICAL SCAN VOTING SYSTEM
presented to Queen Anne's County Commissioners
Michael F. Zimmer
Mark Belton
George M. O'Donnell**

As you are well aware, Queen Anne's County is growing in population. In the last ten years the increase has been about 35% or a rate of 3.5% a year. Increased population obviously translates into a larger voting registration for our office to service. In addition to the normal growth perspective, we are confronted with the realization of the implementation of the FEDERAL MOTOR VOTER ACT in 1995. Although we are not sure of all the ramifications of this Act, we are sure the number of registrations and subsequent voting numbers will be substantially increased. This act eliminates the current policy of purging voters from voter rolls if they have not voted within the past five years.

Queen Anne's County is utilizing 40 year old technology to meet the needs of the election process. The Shoup machines first manufactured in 1953, are no longer being produced. To acquire additional machines means that we have to purchase renovated equipment. Companies available to provide service and parts are becoming increasingly hard to find. Each election cycle, we seem to be facing changes that impact not only an increased number of workers, advertising and printing costs, but the increased demand for more voting machines.

As a prelude to the inevitable process of upgrading the system to one that will be available and utilize computer technology, the Election Board attended a demonstration of the Optech IIIP Eagle system provided by Business Records Corporation and a demonstration of Global's ACCU Vote 2000 provided by Electec Inc. These systems have been reviewed and are certified for use in the State of Maryland. In fact there has been a major migration by other Maryland subdivisions to the system offered by Business Records Corp.; Anne Arundel, Baltimore County, Carroll, Cecil, Charles, Frederick, Garrett, Harford, Howard, Kent, Talbot, St Mary's, Washington, Wicomico and Worcester.

Please note, there are only three counties in the State that are still using SHOUP voting machines: Caroline, Queen Anne's and Somerset.

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We are providing a comparison of costs and problems associated with continued use of the Shoup machines as contrasted with the acquisition of an Optical Scan Voting system. Please be aware since this was last proposed to the Commissioners there is another Vendor available which could greatly enhance our negotiating powers. Business Records' contract with Cecil County included \$500.00 in trade, for each of their Shoup Machines.

"COMPARISONS"

I. SHOUP VOTING MACHINES

A. Past History

1. First machines purchased in 1954
2. Last new machines manufactured in late 1950's
3. Present machine count is 64
4. Average age of our machines is 40 years old

B. Current Facts

1. No new parts are being manufactured for Shoup machines
2. To obtain replacement parts, one must either cannibalize other machines or rely on our one vendor.
3. There is a need for at least four Custodians.
4. Maintenance/Repair cost should begin to increase greatly. At the present time, all of the machines need Micro switches.
5. The County must now provide storage space for the Shoup machines.
6. More machines will be needed in the next seven years because of the increase in registration.
7. The machines are extremely large and heavy, which makes transporting difficult and costly.
8. Shoup machines are NOT handicap accessible

II. Introduction to Optical Scan Equipment

- A. OPTECH IIIP EAGLE manufactured by Business Records Corporation
 1. Certified by the State of Maryland
 2. System was leased by Carroll, Harford, Frederick, Kent, Wicomico, and Washington Counties for use in the 1994 Elections.
 3. The system has already been used in Anne Arundel, Howard and Worcester Counties for a number of years.
 4. The system has been leased by Baltimore County, Cecil, Charles, Garrett, Talbot and St. Mary's for use in the 1996 Elections.
- B. Accu-Vote ES2000 manufactured by Global Election Systems
 1. Certified by the State of Maryland
 2. At the present time, the system is not being used by any County in the State of Maryland.
- C. Features of an Optical Scan System
 1. Can handle multiple polling locations, enabling us to handle up to four precincts on one machine.
 2. Global System has a battery backup in case of power failure.
 3. Are handicap accessible
 4. Provides a permanent record for a complete audit trail.
- D. Advantages to Converting ^{to} an Optical Scan System
 1. Only 1 (one) machine would be required, per polling place.
 2. Each machine can accommodate up to 10,000 voters (Please Note: Per State regulations, we must furnish one Shoup machine for every 400 registered voters)
 3. No Custodial personnel needed since the Vendor would provide technical support. Eliminating four or five people.

4. Vendor would store the machines, thus freeing the storage area for County use.
5. The staff would be trained to program the actual electronic systems.
6. Vendor would train all pollworkers
7. No transportation costs since delivery would be handled by Vendor.
8. Global would provide printed Ballots for both the Polls and Absentee and also furnish the printed AB ballot envelopes for each election, thus reducing the printing cost radically.
9. The expense of additional compensation for extra help to count absentee ballot would be eliminated.
10. Decrease of Election Judges after the first year of use.
11. Simplified and instant election returns. Modems would be provided at each polling place and transmit results to the Election Office shortly after the polls closed. Provides for audit trail reconciliation in the event of a recount.
12. Compact and portable
13. Voter friendly - allows voters to cast their vote without learning how to operate a machine.
14. Certain supplies furnished by Vendor.

III. COMPARISON COSTS - based on seven elections in the next seven fiscal years

ELECTION SCHEDULE FOR NEXT 7 FISCAL YEARS

1996	-	1	-	NOVEMBER PRES. GENERAL
1997	-	0	-	NO ELECTIONS
1998	-	2	-	LOCAL PRIMARY and GENERAL
1999	-	0	-	NO ELECTIONS
2000	-	2	-	PRES. PRIMARY and GENERAL
2001	-	0	-	NO ELECTIONS
2002	-	2	-	LOCAL PRIMARY and GENERAL

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A. Shoup Voting Machines

1.	Transporting machines	\$14,000
2.	Custodians	\$30,000
3.	Election Judges	\$140,000
4.	Heat - storage building	\$9,000
5.	Phone - storage building	\$3,200
6.	Insurance for machines	\$6,600
7.	Parts for machines	\$6,000
8.	Printing	\$10,000
9.	Supplies	\$3,500
10.	Purchase of used Shoup machines.....	\$3,000
	TOTAL	\$225,300

B. Comparison of Optech IIIP Eagle and Global ACCU VOTE
Eagle based on Proposal submitted Oct. 1994
ACCU VOTE based on proposal submitted July, 1995

	EAGLE	ACCU VOTE
1. Seven year lease - Full service rental plan.....	\$248,500	\$221,928
2. Pollworkers - After first year Est. reduction of workers 45%.....	\$ 77,000	77,000
3. Cost of Printing Ballots.....	\$ 34,125	-0-
4. Cost of Printing AB Envelopes.....	\$ 5,000	-0-
	TOTAL	\$298,928

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III-P Eagle

11. Security of unit on ballot box?

The voting unit can not be locked into place on top of the ballot box. The unit is fastened to the ballot box by the use of latches.

12. Printing of ballot material ?

It is very unlikely an outside Printer could be used since they would have to be Certified with Business Records, use the blank ballot shells and purchase equipment from them to test the printed ballots. Fear not, Business Records just happens to own a printing company, who would be more than happy to accommodate everyone. The ballot layout is done by the printer and from this the election office staff programs the election data on the software provided by Vendor.

13. Cost of mailing absentee ballot envelopes?

\$.78 or more for mailing each ballot. The envelopes used for absentee ballots are oversized, resulting in a higher postage cost. The current AB envelopes could not be utilized.

14. Does the system provide complete privacy in the voting booth?

Apparently not. The number one criticism of voters was, their secrecy\privacy was gone.

15. Complexity of operating the unit?

The voting unit was relatively easy to operate. The potentiality of ballots jamming, requiring a technician, could present a real problem.

16. What marking device can be used to cast votes?

Only a black felt tip carbon pen or a #2 pencil can be read by the optical scanner.

Criteria for Evaluation of New Voting System

Accu-Vote ES2000

1. **Cost?**
\$30,518.00 per year for 7 years
2. **Number of Units?**
14 Units
3. **Number of Booths?**
118 voting booths
4. **Is the printing of ballots included?**
YES, The cost of printing the ballots is included.
5. **Are printed Absentee Ballots envelopes supplied?**
YES, printing on all the absentee ballot envelopes is included.
6. **Is there a power supply to provide uninterrupted voting?**
YES, each unit is already equipped with a built-in power supply to provide uninterrupted voting in case of power failure.
7. **How are error messages displayed at the polls?**
Unobstructed visibility of a LCD message screen which is located on the front of the unit. The Zero Tape is confined in a lockable compartment on top of the unit.
8. **What is the weight of each unit?**
The Accu-Vote ES2000 weighs 14 pounds.
9. **Access to voted ballot in ballot box?**
The voted ballots are easily retrieved from the unit by using the rear door on the ballot box.
10. **Does the machine accept non-ballot material?**
No, the Accu-Vote does not accept non ballot material.
11. **Security of unit on ballot box?**
The voting unit is locked into place on top of the ballot box.

Criteria for Evaluation of New Voting System

BRC - IIP Eagle

1. **Cost?**
\$33,000 per year for 7 years
2. **Number of Units?**
12 units
3. **Number of Booths?**
102 voting booths
4. **Is the printing of ballots included?**
NO. Only the ballot shells are provided for in the cost. The election Board is responsible for paying for the printing of the ballots.
5. **Are printed Absentee Ballots envelopes supplied?**
NO. Only the unprinted envelopes are provided, the election Board must pay to have them imprinted.
6. **Is there a power supply to provide uninterrupted voting?**
NO, however, for an additional cost back-up batteries are available, which would allow uninterrupted voting in the case of a power failure.
7. **How are error messages displayed?**
Whenever the unit has a problem with reading a ballot or detects an overvoted ballot, the message is recorded on a tape. The Election Judge\ voter reads the message and follows the instructions given as to the destination of the ballot.
8. **What is the weight of each unit?**
The IIP Eagle weighs 47 pounds.
9. **Access to voted ballots in ballot box?**
The ballots are very difficult to retrieve from this ballot box.
10. **Does the machine accept non-ballot material?**
Yes. The unit would accept non-ballot material, causing it to jam.

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Accu-Vote ES2000

12. Printing of ballot material ?

The printing of ballots is included in the cost. Ballot artwork is generated on software provided by Vendor, in the election office by the staff, and then sent to the printer on a PostScript floppy disk.

13. Cost of mailing absentee ballot envelopes?

The cost to mail an absentee ballot is \$.55 and the current AB envelopes can be used for mailing.

14. Does the system provide complete privacy in the voting booth?

Yes, because the voting booths have a curtain surrounding them.

15. Complexity of operating the unit?

The voting unit was relatively easy to operate. Jams are effortless to correct.

16. What marking device can be used to cast votes?

The optical scanner can read any marking device except red or yellow.

VOTING SYSTEM COMPARISON SUMMARY

B R C IIIP Eagle - ACCU-VOTE 2000 VS SHOUP

FOR USE IN THE POLLS AND ABSENTEE VOTING

< TO LEASE >

TO OPERATE

	<u>EAGLE (BRC)</u>	<u>ACCU-VOTE</u>	<u>SHOUP</u>
CERTIFIED IN THE STATE OF MARYLAND	YES	YES	YES
COST FOR 7 YEAR FULL SERVICE	\$ 33,000 YR.	\$ 31,704 YR.	\$ 32,185 YR.
NUMBER OF UNITS	12 MACHINES	14 MACHINES	64 MACHINES
NEW APPLICATIONS	LIMITED	UPGRADABLE	N/A
UNIT SIZE	22.5"D X 19"W X 7.5"H	16"D X 14"W X 3"H	36"D X 54"W X 78"H
WEIGHT OF UNIT	47 LBS.	14 LBS.	1000 (APPROX.)
BALLOT BOX SIZE	40"D X 24"W X 30.5"H	24"D X 24"W X 38"H	N/A
MESSAGE DISPLAY SCREEN	LED (DISPLAYED ONLY ON TAPE)	LCD (DISPLAYS ON FACE OF MACHINE)	N/A
UNDERWRITERS LAB. APPROVED	NO	YES	N/A
BALLOT FEED PATH	15"-17"	4.5"	N/A

PAGE 2

	<u>EAGLE (BRC)</u>	<u>ACCU-VOTE</u>	<u>SHOUP</u>
UNINTERRUPTED POWER SUPPLY	YES (optional) (NONE IN USE)	YES	NO
INTERNAL MODEM CAPABILITY	<i>Seems to be a problem with this procedure</i> YES	YES	NO
STANDARD BALLOT SIZE	9.75" X 14"	8.5" X 11"	MACHINES USE STRIPS
COLUMNS PER SIDE	3	4	N/A
MEMORY DEVICE	MEMORY PAK	MEMORY CARD	NONE
INTEGRATED AUTO FEEDER	NO	YES	N/A
BALLOT TRANSFER CASES	12	11	N/A
VOTING BOOTHS W/LIGHT	102	118 (CURTAINS)	N/A
ABSENTEE BALLOT ENVELOPES (3)	YES (UNPRINTED)	YES (PRINTED)	YES (UNPRINTED)
BALLOT SHELLS AND PRINTING OF BALLOTS	NO (UNPRINTED SHELLS) (19,000 PER ELECTION)	YES (PRINTED) (18,000 PER ELECTION)	N/A
SECURITY FOLDERS FOR VOTED BALLOTS	YES	YES	N/A

	<u>EAGLE(BRC)</u>	<u>ACCU-VOTE</u>	<u>SHOUP</u>
TRAINING OF POLL WORKERS	YES	YES	NO
ON SITE ELECTION DAY SUPPORT	YES	YES	NO
STORAGE OF UNITS, BOXES & BOOTHS	ONLY UNITS	YES	NO
MAINTENANCE OF UNITS	YES	YES	MUST HIRE CUSTODIANS (4)
DELIVERY & PICKUP OF UNITS	YES	YES	NO
METHOD USED TO MARK BALLOT	COMPLETE ARROW <-- --	FILL IN OVAL	LEVER
DEMONSTRATION BALLOTS	YES	YES	NO
OPERATIONAL MANUAL FOR POLLWORKERS	YES	YES	NO
BALLOT JAMS	JAMS SHUT DOWN MACHINE (machine must be opened)	EASILY CLEARED	N/A
HEAT FOR STORAGE BUILDING	N/A	N/A	YES
PHONE FOR STORAGE BUILDING	N/A	N/A	YES
INSURANCE FOR MACHINES	YES	YES	NO \$800 YR

Appendix 10

Model Contract for a Punchcard Voting System

State Election Commission
Indiana

MODEL CONTRACT

Approved by Indiana Voting Systems Advisory Committee
October 14, 1993

This agreement, entered into on the _____ day of _____, 199_, by and between the Board of Commissioners of _____, County, State of Indiana, (hereinafter "County Commissioners"), on behalf of _____, County, State of Indiana (hereinafter "County"), and _____ (hereinafter "Company"), is executed due to consideration of the following mutual covenants, terms, conditions and promises.

A. EQUIPMENT AND PRODUCTS

1. SALE OR LEASE TERMS

Company agrees to provide computer equipment, hardware, peripheral equipment and other products (hereinafter "equipment and products") as identified (with a price schedule per unit) in Addendum A of this contract to County by _____, 199_.

County agrees to accept equipment and products identified in Addendum A under the following terms (designated by an "X"):

(a) SALE OF EQUIPMENT. Company agrees to sell and the County agrees to buy the equipment and products of Company specified in Addendum A, for a total purchase price of \$_____.

(b) INSTALLMENT SALE OF EQUIPMENT. Company agrees to sell and the County agrees to buy the equipment and products of Company specified in Addendum-A, for a total purchase price of \$_____.

The County agrees to make purchase payments to the Company on the following dates and in the following amounts:

At all times during the terms of this Agreement, the installment provisions of this subsection (b) are subject to adequate appropriation of funds by the County Council of the County for payment of future installment sums and the availability of funding for the obligations contained in this Contract.

Payments of interest and reduction of principal are to be made beginning with the first payment on _____, 199__, and payments shall continue on those days specified until _____, _____, when the balance of the purchase price together with interest as shown in this Contract shall be paid in full as the final payment.

Interest shall be computed at a rate of _____% per annum on balance outstanding on the date of each payment as provided in this Contract.

Payments first apply to interest due and owing at the time of payment. Any remaining amounts are applied to the reduction of principal.

(c) SECURITY AGREEMENT. If this section is separately executed by the parties below, the County grants to the Company a security interest in the equipment and products, and the proceeds thereof, to secure all sums owing pursuant to this Agreement. The County authorizes the Company to sign and file, without the County's signature, a financing statement or statements on its behalf in those public offices deemed necessary by the Company to perfect its security interest granted herein. In addition, the County agrees to do such other acts and things and deliver or cause to be delivered such other documents as the Company may reasonably deem necessary to establish and maintain a valid security interest in the equipment and products. The parties agree that upon payment of all sums owing to the Company from the County pursuant to this Agreement, the Company shall release this security agreement and financing statements relating to the equipment and products.

Dated: _____

(Company)

Dated: _____

(County)

(d) LEASE OF EQUIPMENT. Company agrees to lease to the County and the County agrees to lease from the Company the equipment and products specified in Addendum A for a total lease price of \$_____ per year. County agrees to make lease payments to the Company on the following dates and in the following amounts:

B. SERVICE TERMS FOR SALE OR LEASE OF EQUIPMENT
AND PRODUCTS (OPTIONAL)

Company agrees to provide the following services for the equipment and products listed in Addendum "A" for a term beginning on _____ and continuing until _____.

The service agreement as set forth in Section 2 is not subject to IC 36-1-9.

(a) MAINTENANCE AND INSPECTION. In exchange for a maintenance fee of \$_____ per year for the entire term of this Agreement, which County shall pay to Company no later than _____ each year, Company shall maintain the equipment and products in good working order for use at elections.

The maintenance fee includes all time and labor necessary to keep the equipment and products in good working condition during the terms of this Agreement.

Company has the right to inspect any equipment and products at any time before or during the term of this Agreement. Company shall also inspect the equipment and products at the request of County to ensure that the equipment and products are maintained in good working order. Company shall complete all inspections requested by the County within ten (10) working days. The compensation for work performed by Company under this Paragraph is included in the maintenance fee under the first paragraph of this subsection (a).

In addition to the regular maintenance operations required by this Agreement, the Company shall, not later than five (5) but not earlier than forty (40) days before any election at which the equipment is to be used, inspect and test the equipment to ensure that the equipment is in good working order.

Company shall supply all parts and labor necessary to maintain the equipment and products in good working condition, free of charge. All parts supplied by Company shall be either new standard parts or parts of reasonable quality, and shall be substituted and exchanged for the old parts, which become the property of Company. The Company is responsible for the installation of the parts described by this paragraph. The Company must use any authorized repair person necessary to retain any manufacturer's warranty in full force and effect. [The Company shall train County personnel to properly install the parts supplied by Company.]

(b) MANUALS. Company agrees to prepare and to furnish to the County, at no additional cost, manuals describing the design, operation and required maintenance of the equipment and products. The manuals shall be written so as to be understandable to a lay person. -

Company shall update the manuals and provide updated manuals to the County, free of charge, after each and every modification of the equipment and products by the Company for a term of [xxxxx] years after this contract is executed.

(c) DELIVERY, DEMONSTRATION. On or before _____, Company shall deliver the equipment, products and manuals to _____, at the following location:

Company shall set up, test, correct problems and errors and make operational the equipment and products, and shall on _____ (hereinafter "date of demonstration"), demonstrate that the equipment and products function and are in good working order for use at elections to those persons selected by the County Election Board.

(d) STORAGE. After initial delivery, Company shall provide storage for the equipment and products, when requested by County, at a fee of \$_____ per month for the entire term of the Agreement.

At the time requested, the Company shall re-deliver the specific equipment consigned to it, without substitution. Company shall not permit any use of the equipment in storage for any purpose, without specific written permission of County.

(e) TRAINING OF ELECTION OFFICIALS. In exchange for a training fee of \$_____ per election year, to be paid no later than _____ of the election year, for the entire term of this Agreement, Company shall train those persons selected by the County in the following areas:

This training is limited to instruction in the mechanics of the functions listed in this section and shall not include any legal or policy advice relating to the conduct of elections.

(f) SUPPORT SERVICES. In addition to the maintenance fee paid by County to Company, Company shall render the following support services for the entire term of this Agreement, at each election, in exchange for the following fees:

(1) Design the ballot booklet(s) for the election (s) to be held _____, for a fee of \$_____ per election. The Company shall have the ballot booklet design ready at least _____days before the corresponding election.

(2) Print the ballot(s) and ballot booklet(s) for the election(s) to be held _____, for a fee of \$_____ per election. The Company shall deliver the printed ballot(s) or ballot booklets to _____ at least _____days before the corresponding election.

(3) Prepare the ballot masks for the election(s) to be held _____, for a fee of \$_____ per election. The Company shall have the ballot masks prepared at least _____days before the corresponding election.

(4) Crimp the page(s) for the election(s) to be held _____, for a fee of \$_____ per election. Company shall have the ballot pages crimped at least _____days before the corresponding election. The Company shall crimp and deliver all ballot pages delivered to it by the County [or the Secretary of State].

(5) Assemble the marking units for the election(s) to be held _____, for a fee of \$_____ per election. Company shall have the assembled marking units ready at least _____ days prior to the corresponding election.

(6) Develop parameters for elected offices and public questions, and program cartridges for the programming of the equipment, for each election(s) to be held during the entire term of this Agreement, for a fee of \$_____ per election. The Company shall have the parameters ready at least _____ days prior to the corresponding election.

(7) Assist the election officers in tabulating the vote, in accordance with IC 3-12-1 and 15 IAC, at the election(s) to be held _____ for a fee of \$_____ per election.

(8) _____ for the election(s) to be held _____, for a fee of \$_____ per election.

(9) _____ for the election(s) to be held _____ for a fee of \$_____ per election.

[In the alternative, Company is required to assist a vendor designated by County in designing, producing, and delivering the printed products described under (f).]

g. SPECIAL ELECTION DAY SERVICES. For each election to be held in which the products and or equipment are to be utilized by County, Company agrees, in exchange for a special services fee of \$_____ per election, which County shall pay to the Company not later than _____ (__) days before the corresponding election, to have available on election day sufficient staff, spare parts and replacement equipment to perform any emergency repair or support services that County may request within _____ (__) hours of the request, including furnishing, installing, and making operational any back-up equipment.

C. SOFTWARE

1. TERMS

Company grants the County a non-transferrable and nonexclusive license to do the following:

- a. Use, load, execute or store the computer programs listed in Addendum B (hereinafter "licensed programs") and each copy, update or modification or any or all licensed programs.
- b. Use all "support documentation" designated as any diagrams, manuals, instructions, and other similar materials, and any copies of any of the foregoing, related to the Licensed Programs and delivered to County in accordance with this License.
- c. Have one (1) back-up copy of the licensed programs, supplied by Company to County.

In consideration of this License, County shall pay Company the following:

1. An initial license fee of \$_____, (the "License Fee"), which shall be invoiced on the date the Licensed Programs are delivered to County and which is non-refundable after the County accepts the Licensed Programs as provided in subsection C.4.
2. Within thirty (30) days after each anniversary of the delivery of the Licensed Programs until termination of this License, a subscription fee of \$_____ (the "Subscription Fee") which extends the terms of this Agreement for an additional twelve (12) months and which entitles the County to receive updates as provided in subsection C.4.

However, Company may increase the subscription Fee by giving County at least one (1) month written notice before the due date for payment of the fee. County then has the right to terminate this Agreement and its obligation to pay the new subscription fee by giving the Company ten (10) days written notice. **The subscription fee may not be increased by more than [xxx%] or to an amount that exceeds [\$xxxxx]**

2. TITLE

County acknowledges that title to all intellectual property rights, including patent, trademark, copyright and trade secret rights, and title to all ownership rights in all copies of media bearing the Licensed Programs and Support Documentation, is retained by Company.

3. DELIVERY: MATERIALS, FORM, TIME

Subject to conditions beyond its reasonable control, Company shall deliver two (2) copies of the Licensed Programs in machine-readable object code and related Support Documentation to County no later than thirty (30) days after Company and County execute this Agreement. Company bears the cost of such delivery.

4. RISK OF LOSS

Company relieves County of responsibility for all risk of loss or damage to the Licensed Programs and Support Documentation occurring during shipment.

If the Licensed Programs or Support Documentation are lost or damaged after delivery to County, Company will replace the Licensed Programs or Support Documentation at Company's then applicable charges for the replacement.

5. INSTALLATION AND TRAINING

(a) Company shall assist County in installing the Licensed Programs on designated machines and shall train County's employees in the use of the Licensed Programs for the period and in the following manner:

Additional training and installation will be provided by Company if requested by County at Company's then applicable charges for such training and installation.

(b) County shall prepare the designated sites to permit proper installation of the Licensed Programs, particularly with respect to electric power and ambient conditions. County is responsible for the compatibility of the designated machine supplied to Company by County.

6. MODIFICATIONS AND UPDATES

(a) If Company makes updates or modifications to the Licensed Programs during the term of this License, including those changes which require recertification by the Indiana State Election Board, Company agrees to provide these updates to County, along with related Support Documentation, free of charge.

(b) If Company makes enhancements to the Licensed Programs during the term of this License, Company agrees to offer the enhancements to County if the offer would not violate any agreement with any other customers of Company. Additional license fees for each enhancement will be negotiated with County when the enhancement is offered.

(c) County agrees to use the updated Licensed Programs delivered to the County by the Company. If new copies of the Licensed Programs with updates or enhancements are delivered to County by Company, County shall return all old copies of the Licensed Programs to the Company within ten (10) days of delivery.

7. RESTRICTIONS ON DISSEMINATION

(a) County acknowledges that the Licensed Programs and Support Documentation are confidential information which is the property and trade secret of Company. County will take all reasonable steps to maintain the confidentiality of this information.

(b) County shall not, without Company's prior written permission, disclose, provide, or make available any of the Licensed Programs or Support Documentation, in any form, to any person, except to employees or consultants of the County whose access is necessary to enable the County to exercise its rights under this Agreement.

(c) County shall require an employee or consultant having such access to agree to maintain the confidentiality of the Licensed Programs and Support Documentation.

8. COPYRIGHT AND COPYING

(a) Except as authorized in advance by Company, County shall not copy all or any part of the Licensed Programs and Support Documentation.

(b) County shall not permit any other person or organization to copy any of the Licensed Programs or Support Documentation.

(c) All authorized copies delivered to County must include the following legend:

Copyright by "Company" as an unpublished work created in 199__ and first licensed in 199__.
THIS COMPUTER PROGRAM AND DOCUMENTATION IS CONFIDENTIAL, PROPRIETARY INFORMATION AND A TRADE SECRET WHICH IS THE PROPERTY OF "COMPANY". ALL USE, DISCLOSURE, OR REPRODUCTION NOT EXPRESSLY AUTHORIZED BY _____ IS PROHIBITED. THIS COMPUTER PROGRAM AND DOCUMENTATION MAY ALSO BE PROTECTED UNDER THE COPYRIGHT AND TRADE SECRET LAWS OF NON-U.S. COUNTRIES. ALL RIGHTS RESERVED.

(d) County shall not remove this legend from any Licensed Programs or Support Documentation.

(e) County shall maintain a log of the number and location of all originals and copies of the Licensed Programs and Support Documentation. All copies of the Licensed Programs and Support Documentation shall be kept only at a specified site designate by County, unless Company provides written approval, at Company's discretion, to County to maintain the copies at a location other than the designated site.

D. TERMS AND CONDITIONS APPLICABLE UNDER
SECTIONS A, B, AND C

1. RESPONSIBILITIES OF COUNTY

(a) County shall provide Company full access to the equipment and products to perform any maintenance services required during the term of this Agreement.

(b) If maintenance is performed at County's facilities, County shall provide Company with adequate working space including heat, light, ventilation, electric current and outlets, and adequate storage space, if required by Company, for spare parts for equipment and products.

The working space and storage space shall be within a reasonable distance from the equipment and products, and shall be provided by County to Company at no charge.

(c) If Company requests, County shall record, in reasonable detail, operating information for equipment and products. The records must adequately show the operating history of equipment and products, including any history of malfunctions.

2. CONTRACT SUBJECT TO CERTIFICATION

This Agreement, in its entirety, imposes continuing obligations on the parties to the Agreement, subject to Company retaining certification for all equipment, products, or software previously certified by the Indiana State Election Board, pursuant to IC 3-11-7 or IC 3-11-7.5 and 15 IAC 1. If the equipment, products or software is "decertified" or is no longer recognized as certified by the State Election Board, this Agreement is rendered null and void and no longer enforceable by Company.

3. FORCE MAJEURE

The Company, the County, or both, are excused from performance under this Agreement for any period the Company or the County is prevented from performing their respective obligations under this Agreement in whole or in part as a result of an act of God, war, civil disturbance, court order, labor dispute or other cause beyond its reasonable control. This nonperformance is not a ground for termination or default.

4. WAIVER

Any waiver by either party of any provision of this Agreement must be in writing, and does not imply subsequent waiver of that or any other provision.

5. ARBITRATION

With respect to all matters contained in this Agreement between Company and County, both parties shall use best efforts to communicate and resolve issues and disputes where agreement can be reached.

If either party is not satisfied with the resolution of any issue or dispute or the issue or dispute cannot be resolved by the parties, then either party may request that the dispute be submitted to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

All costs and expenses of the arbitration, including actual attorney's fees, shall be paid by the non-prevailing party. The party whose position prevails in the arbitration is entitled to reimbursement from the other party of all sums, including actual attorney's fees expended in connection with the arbitration. The arbitrator's award resulting from the arbitration may be confirmed and entered as final judgment in any court of competent jurisdiction and enforced accordingly.

The parties expressly agree that proceeding to arbitration and obtaining an award under arbitration is a condition precedent to the bringing or maintaining of any action in any court with respect to the dispute, except for the institution of a civil action to maintain the status quo while an arbitration proceeding is pending.

6. NOTICES

Except as otherwise noted in this Agreement, any notice, demand, request or other communication required to be given by either party to the other party pursuant to this Agreement must be in writing and mailed by first class mail, or certified mail, return receipt requested, or transmitted by hand delivery, telegram or telex, to the appropriate addresses as follows:

or to such other address as either party may substitute by written notice given in the manner prescribed in this paragraph.

Notice is considered given three (3) days after mailed, or at the time it is actually delivered to the addressee or the attempted delivery is refused by the addressee.

7. ASSIGNMENT

Neither party may, without prior written consent of the other party, assign or otherwise transfer this Agreement, or any of the rights or obligations under this Agreement, to a third party.

8. GOVERNING LAW

This Agreement shall be construed and enforced in accordance with the laws of the State of Indiana.

9. ATTORNEY'S FEES

If litigation is commenced between the parties to this Agreement concerning the terms of this Agreement, the equipment, products, services, software or obligations described in the Agreement, the prevailing party in such litigation is entitled, in addition to the other relief that may be granted, to a reasonable sum for attorney's fees in the litigation, which shall be determined by the Court in the underlying litigation or in a separate action brought for that purpose.

10. INDEMNITY

Company shall indemnify and hold harmless County from any and all damages, judgments, liens, penalties and cost arising from a breach of the terms contained in this Agreement or negligence on the part of Company in fulfilling the terms in this Agreement.

11. PERFORMANCE BOND

Company agrees to execute and deliver to County within thirty (30) days after executing this Agreement, a satisfactory performance bond in the amount equal to _____ percent (____%) of the contract price.

[If Company demonstrates to County that it is impossible for Company to obtain a performance bond on software described by this agreement, Company agrees instead to pay liquidated damages to County in the amount of \$_____ per day for each day that Company is in breach of this contract.]

12. WARRANTIES

Company warrants that the equipment, products and software shall be merchantable within the meaning of IC 26-1-2-314 on the date of execution of this Agreement for a period of five (5) years from the date of execution of this Agreement.

Company also warrants that the equipment products and software are suitable and fit within the meaning of IC 26-1-2-315 for a period of five (5) years from the date of execution of this Agreement for the purpose of providing the means for County to conduct lawful election procedures. Company acknowledges that County is purchasing the equipment, products and software in reliance on the skill and judgment of Company.

13. COMPLETE AGREEMENT

This Agreement, including the attached exhibits, embodies the entire contractual agreement of the parties with respect to the subject matter hereof. This Agreement cannot be modified except by written agreement signed by all parties to the Agreement.

Dated: _____

(Company)

Dated: _____

(County)

Appendix 11

Legal Memorandum and Sample Provisions for a Voting System Contract

Executive Director
State Election Board
New York

NEW YORK STATE BOARD OF ELECTIONS

August 31, 1989

M E M O R A N D U M

TO: Purchasers of Computerized Voting Equipment

FR: Deputy Counsel for Election Law Enforcement
Director of Election OperationsCONTRACT ISSUES FOR PURCHASE OF DIRECT ELECTRONIC EQUIPMENT:

- 1) Jurisdictions should review all statutory and regulatory provisions.

NOTE: Not all provisions apply since they relate to SBOE Certification Process.

- 2) Jurisdictions should review SBOE Certification Report since recommendations are made to jurisdictions purchasing that particular system.

- 3) Jurisdictions should review statistical data needed for inclusion in/or preparation of contract issues:

- * number of units to be purchased
- * number of polling sites
- * number of demonstration models desired
- * number of voters in e.d.'s affected
- * number of employees to be trained
- * number of inspectors to be trained
- * statistical details for ballot coding i.e. - number of ballot styles

- 4) Jurisdictions/county board (if not the same) should draw up schedule of events and key dates of provisions they may need in contract. These would include:

- * dates of delivery
- * dates of SBOE acceptance testing
- * built in timetable for correction of problems
- * training schedule, employees, warehouse personnel, inspectors, community based training
- * pre-election activities: ballot coding deadlines, delivery schedules, support schedules
- * election day support schedules/details

The above are to be incorporated into the various appendices of your contract.

Use the same review format for Absentee System Contracts with the inclusion of other key information such as:

- * deadlines for supplying election coding
- * deadlines for providing ballot stock to local printer or if vendor is to do printing the deadlines for supplying ballot proofs and final printing to county board

County Boards will also need to review provisions of new regulations (6209.11) recently adopted by the State Board since some such provision may be required to be included in the contract language.

DELIVERY AND ACCEPTANCE TESTING:

The vendor should be on-site in advance of acceptance testing and during unpacking and assembly. Vendor should also supply details of unpacking and assembly and remain on-site throughout the acceptance testing process to answer questions and correct minor deficiencies. The company should specify the name and title of employees to be on-site during this process.

TRAINING:

Vendor shall specify the names and titles of those employees involved in the training process. Buyer should specify the number of hours of training prior to unpacking of equipment and for training of office, warehouse and inspector personnel. Vendor shall deliver required manuals (operational and inspector training) to county board prior to required training for review prior to actual training.

The Buyer may want to propose additional demonstration/training for community/political groups prior to using new equipment in election. The training schedule may want to document this.

The following topics be added to contract language: (all apply to first year of operation)

WARRANTY

Pursuant to statute and regulations, all equipment and components are to be warranted for five years by the seller. This should be made clear in your contract clause specifying the consideration (price to be paid) to the vendor for the equipment, warranty, training, etc. You may wish to schedule out payments because of the ongoing relationship, or to pay in one lump sum. The particulars are within the discretion of the parties, so long as maintenance and warranty clauses are included as a part of the contract.

PRE-ELECTION SUPPORT:

The vendor should be required to be on-site during the following pre-election timetable during the first year of operation:

- * delivery of coded ballot cartridges
- * installation of cartridges
- * pre-election testing of ballot coding
- * delivery of equipment to polling sites
- * final check of equipment prior to election day

The vendor should be required to supply the number of employees to be made available for this process, their names and titles, and the number of hours on-site.

ELECTION DAY SUPPORT:

The vendor should be required to adhere to a mutually agreed schedule of support for election day activities. The vendor should be required to list names and titles of all personnel they will make available on election day to the purchasing jurisdiction.

POST-ELECTION DAY SUPPORT:

The vendor should agree that if in the event of problems on election day (if problems are determined by the county board or SBOE) that all personnel will remain on-site until problems have been resolved. The vendor should agree that in the event of any problems on election day, a full and detailed report will be made to the jurisdiction with an appropriate schedule for remedial action.

These are some suggestions to help you in the preparation of your contracts for the purchase of computerized voting equipment. We have also prepared some standardized contract provisions to take care of clauses required to be in all purchase contracts. Finally, the staff of the State Board of Elections is available to assist you during the purchase process.

MEMORANDUM

TO: Purchasers of Computerized Voting Equipment
FROM: New York State Board of Elections
RE: Contracts for Voting Equipment
DATE: August 31, 1989

Attached you will find sample contract provisions prepared by the New York State Board of Elections for use in the preparation of instruments for the acquisition of electronic voting equipment. We have also prepared a check list of issues you should review before purchasing equipment.

These provisions were prepared in accordance with Parts 6209.9 and 6209.10 of the Board's regulations regarding such purchases. While you are not bound to include this exact language, equivalent terminology must be contained in your contracts. Paragraphs designated with a ** are not statutorily required but strongly recommended for inclusion.

Finally, please remember that all contracts for the purchase of voting machines must be submitted to the New York State Board of Elections for approval subject to the terms of §7-204 of the Election Law.

Should you have any questions regarding the preparation of these contracts, contact Patricia Murray, Deputy Counsel for Election Law Enforcement, at 518-474-6367.

NOTE: WHAT FOLLOWS ARE PROVISIONS FOR INCLUSION INTO CONTRACTS FOR THE PURCHASE OF COMPUTERIZED VOTING EQUIPMENT PREPARED BY THE STATE BOARD OF ELECTIONS PURSUANT TO §7-204 OF THE ELECTION LAW AND Part 6209 OF THE BOARD'S REGULATIONS. THESE PROVISIONS DO NOT REPRESENT A COMPLETE CONTRACT FOR THE PURCHASE OF EQUIPMENT. YOUR BOARD MAY WISH TO USE THESE CLAUSES AS GUIDELINES FOR YOUR OWN CONTRACT PROVISIONS. IN ANY EVENT, YOUR BOARD SHOULD REVIEW THESE PROVISIONS, THE STATUTE AND REGULATIONS WITH THE COUNTY ATTORNEY OR OTHER APPROPRIATE AUTHORITY BEFORE SUBMITTING A CONTRACT TO THE STATE BOARD OF ELECTIONS FOR APPROVAL.

STATUTORY COMPLIANCE

This contract has been drawn so as to comply with all applicable provisions of the New York State Election Law, and regulations promulgated thereto. Specifically, this contract has been drawn and will be administered pursuant to §7-204 of the Election Law and shall not be effective until at least ten days after it shall have been submitted to the State Board of Elections. If, during such ten-day period, the State Board of Elections notifies Buyer that the contract does not meet the requirements of the Election Law or the Regulations of the State Board, the contract shall not be effective until such time as the contract is amended to the satisfaction of the State Board.

SAMPLE LIST OF APPENDICES

Appendix A	Acceptance testing, description of procedures and dates
Appendix B	List of polling places, also list of polling places not meeting environmental standards and remediation, (if any)
Appendix C	Training schedule
Appendix D	Storage sites and conditions
Appendix E	Maintenance/repair/replacement of equipment schedules and description of procedures

DELIVERY & ACCEPTANCE TESTING

Seller shall deliver (describe voting equipment and ancillary equipment) to buyer at such address as buyer shall designate upon notification by seller that the said voting equipment and ancillary equipment, hereinafter referred to collectively as "the subject voting equipment", is ready for shipment. Buyer shall receive the equipment on delivery to the address designated.

Buyer shall complete acceptance testing pursuant to § 6209.11 of Title 9 of the Official Compilation of Codes Rules and Regulations of the State of New York.

Buyer and Seller hereby agree and accept appendix ____¹ affixed here to as the method to be used for acceptance testing.

[Option to be used for purchase
of more than 10 units]

In no event shall Seller deliver the said voting equipment to Buyer later than (Date - 3 months prior to 1st election use).

[Option to be used for purchase
of less than 10 units]

In no event shall Seller deliver the said voting equipment to Buyer later than (Date - 1 month prior to 1st election use).

Any equipment delivered by Buyer to Seller which does not pass acceptance testing provided for herein above (Appendix ____ affixed hereto) shall be replaced or repaired by Seller within 30 days of delivery. Whenever possible, any replacement equipment must be delivered or repairs must be completed not less than 14 days before the election. Equipment replaced or repaired pursuant to this article shall be subject to acceptance testing (or re-testing) as

¹ see attached memos for pointers on drafting appendices

provided for herein above (Appendix ___ affixed hereto).

Acceptance of the said equipment in accordance with the procedures detailed in Appendix ___ affixed here to shall be deemed final.

Polling Site Survey

Seller and Buyer hereby certify and agree that appendix ___, affixed hereto, represents a true and complete compilation of a mutually conducted study of all polling places within Buyer's jurisdiction.

Seller and Buyer further agree that all polling places named in Appendix ___ affixed hereto meet environmental conditions required for the proper operation of (subject voting equipment) except the following polling places:

as described in Appendix ___. Seller and Buyer have included in Appendix ___ a complete description of remedial actions to be taken by Buyer/Seller prior to delivery of (subject voting equipment) which will bring the above specified polling places into compliance with environmental conditions required for proper operation of the said voting equipment.

Training

Seller agrees to provide training to Buyer's designated employees at least _____ (days/months) prior to delivery of (the subject voting equipment) as follows:

1. Instruction in removal of packaging materials of the said voting equipment;
2. Instruction as to the necessary assembly required to make the said equipment functional;
3. Instruction as to the specific procedures for testing of which the capability and readiness of the said equipment pursuant to Part 6209.11 of Title 9 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

Seller further agrees to provide training to Buyer's designated employees upon delivery of (the subject voting equipment) as follows:

1. Instruction as to the operation of auxiliary features, programming, hardware, telecommunications systems and central vote tabulating systems;
2. Instruction in all maintenance, storage and transportation procedures to be utilized by Buyer's employees prior to an election.
3. Instruction in all procedures to be used to accomplish ballot face layout and ballot programming to be utilized by Buyer's employees prior to an election.

In addition to the aforesaid training, Seller agrees to provide Buyer with ___ copies of a complete operations manual for the said equipment describing all methods of operation and procedures as set forth in the paragraphs herein above **In no event shall the training provided for in this article be provided for less than ___ days prior to the first proposed use of the said equipment in an election, and less than _____ days prior to delivery**

Buyer and Seller further agree that Appendix ___ annexed hereto represents a plan by which Seller's designated personnel will be present at the sites of all elections during the first year in which the said equipment is used for the purpose of providing

training, guidance and supervision in the use of the said equipment by Buyer's employees.

****Seller shall submit to Buyer no later than _____ days prior to the scheduled date of any training provided pursuant to the provisions of this article a complete listing of the qualifications of all of Seller's employees designated to provide training. Buyer reserves the right to reject any of Seller's employees designated to provide training that it may find to be unqualified.****

****COPYRIGHT & PATENT INFRINGEMENT****

Seller shall defend at its own expense any claim or action against Buyer for actual or alleged infringement of any patent, copyright or similar property right including, without limitation, misappropriation of trade secrets based on the equipment or the use thereof by the Buyer. Seller shall further indemnify and hold harmless Buyer from any and all liabilities, losses, damages, cost and expenses, including reasonable attorneys fees incurred by Buyer with connection with any such claim or action. Buyer shall promptly transmit to Seller any written threat, warning or notice of any such claim or action received by Buyer, and copies of all related papers served upon or received by Buyer; provided however, that Buyer's failure to give such prompt written notice shall not affect Seller's obligation under this section, except to the extent, if any, which Buyer's failure to give such notice materially impairs Buyer's ability to defend successfully against such claimer action. Seller shall have the sole right to conduct the defense, settlement, or compromise of any such claim or action unless otherwise mutually agreed to in writing between Buyer and

Seller. Seller shall give Buyer prompt written notices of any threat, warning, or notice of which Seller is aware, regarding any such claims or actions against Seller or any other user, supplier or manufacturer of the equipment which could have a material adverse impact upon Buyer's use of the equipment.

In the event the equipment is likely to, in Seller's opinion, or does become a subject of a claim or action or infringement, Seller may, and in the event the equipment is held to constitute infringement and the use thereof is permanently enjoined, Seller shall at its own expense and with Buyer's written consent, either:

a. Obtain for Buyer the right to continue using the equipment;

or,

b. Cause the equipment to be modified so that it is non-infringing, provided that such modification does not adversely affect Buyer's intended use of the equipment, and such modification shall be approved by the State Board of Elections in accordance with procedures for acceptance of new equipment.

c. Replace the equipment with equally suitable, non-infringing equipment on the same terms as provided herein, at no charge to buyer. Seller shall not be liable for infringement or claim thereof of any patent, copyright or similar property right, including but not limited to misappropriation of trade secrets, if such infringement is caused by Buyer's use of equipment in combination with other equipment not furnished to Buyer by Seller under the Agreement. Replacement equipment shall be subject to approval by the State Board of Elections in accordance with procedures for acceptance of new equipment.

Performance Bond

Not later than _____ (Date) _____ Seller shall have posted sufficient bond conditioned upon its performance of warranty, service, training and support obligations set forth in this contract, as follows:

(training and support requirements may vary according to the particular equipment purchased. A detailed and complete description should be included)

SERVICE & WARRANTY

_____ (Seller) _____, hereby warrants in return for the consideration specified hereinabove all of the subject voting equipment and components thereof received by Buyer pursuant to this contract as follows:

a. Seller warrants that the said voting equipment has been certified by the New York State Board of Elections pursuant to statute.

b. For five years from the date of acceptance, or from the date of first use in an election, whichever is later.

c. Buyer agrees to keep the said voting equipment in good working order, and to properly store same as detailed in Appendix _____ affixed hereto.

d. Seller's warranty shall be inapplicable where the said voting equipment is damaged, rendered inoperable or defective as a result of Buyer's negligence, improper use or storage thereof, failure to adhere to proper maintenance and/or storage procedures, alteration, tampering, unauthorized repair, accident or act of God.

e. In the event any of the said voting equipment shall malfunction during the warranty period, the Buyer shall immediately notify Seller of the malfunction. Repair and/or replacement of the malfunctioning unit shall be made pursuant to Appendix _____ affixed hereto.

Buyer and Seller hereby agree that Seller shall, in return for the consideration detailed hereinabove, maintain all of the equipment received by Buyer pursuant to this contract for a period of five years from the date of acceptance or from the date of first use in an election, whichever is later, in accordance with the terms of Appendix _____, affixed hereto.

_____ County

ELECTRONIC VOTING EQUIPMENT

CHECK LIST

Delivery and Acceptance Testing

_____ deliver to designated place

_____ method for acceptance testing

_____ compliance with §6209.11

Delivery (10 + units _____ 3 months prior to use
(10 units _____ 1 month prior to use

_____ replace or repair within 30 days

_____ replace or repair if possible 14 days before election

_____ retesting of replacements/repairs

_____ acceptance

Polling Site Survey

_____ survey

_____ remedial actions if required

Training

_____ unpacking

_____ setup

_____ testing

_____ operation

_____ maintenance/storage/transportation

_____ programming for election

_____ operations manuals

**_____ deadline for training

**_____ qualifications of trainers

****Copyright and Patent Infringement**

_____ protection

Service and Warranty

_____ SBOE certified

_____ 5 years from acceptance or first use (whichever is later)

_____ repair/replace

_____ 5-year maintenance provisions

Performance Bond

_____ warranty, service, training, support

Statutory Compliance

_____ §7-204 (CRR 6209)

_____ 10 days for approval

**** Technical Details**

_____ number of units

_____ number of polling sites

_____ number of demo models

_____ number of voters in election districts affected

_____ number of employees to be trained

_____ number of inspectors to be trained

_____ number of ballot styles

_____ dates of delivery

_____ dates of SBOE acceptance testing

_____ correction of problems (timetable)

_____ training schedules

_____ pre-election deadlines - ballot coding, delivery, support

_____ election day support schedules

Absente Systems

_____ deadline for supplying coding

_____ deadline for providing ballot stock to local printer
or ballot proofs to county board

_____ vendor on site prior to test

_____ post-election support

** Optional

Other comments:

MAINTENANCE LOG FOR DIRECT ELECTRONIC VOTING MACHINES

COUNTY _____

ELECTION DISTRICT # _____

TOWN _____

MACHINE # _____

DATE RECEIVED _____

PROTECTIVE COUNTER # _____

ACCEPTANCE TEST SECTION

ACCEPTANCE TEST DATE _____

COMM. SIGNATURE _____

BALLOTS CAST _____

COMM. SIGNATURE _____

ACCEPTED YES\NO _____

SBOE SIGNATURE _____

MONTH	DATE CHARGE	SECTION DATE REPLACED WARRENTY (Y-N)	ANNUAL VOTE REQUIREMENT (800 BALLOTS) (200 PER QTR) ENTER NUMBER	NAME & DATE OF PERSON SUPPLYING SERVICE	MACHINE PERFORMANCE	EQUIP DOWN TIME
					LIST PARTS REPLACED AND GIVE BRIEF DISCRIPTION OF PROBLEM USE ADDITIONAL PAPER IF NEEDED	
JANUARY						
FEBRUARY						
MARCH						
APRIL						
MAY						
JUNE						
JULY						
AUGUST						
SEPTEMBER						
OCTOBER						
NOVEMBER						
DECEMBER						

COMMENTS: _____

AUDIT DATE _____
 EO-06 (2/91) - SBOE

AUDITED BY _____

Appendix 12

Table of Contents for a DRE/Punchcard Absentee Voting System

Registrar
Clark County
Nevada

Clark County, Nevada

TABLE OF CONTENTS

**Contract for Purchase of Voting System,
DRE machines, Teamwork punchcard for absentee voting.**

Sections

1. Purchase and shipment.
2. Responsibilities of Seller.
3. Responsibilities of County.
4. Scope of work; detailed in Schedule A, attached.
5. Changes to scope of work.
6. Compensation and terms of payment.
7. Subcontracts.
8. Time schedule.
9. Software licenses.
10. Warranties.
11. Miscellaneous: suspension, termination, insurance, etc.

Attachments

- A. Detailed listing of hardware, software, and optional items. Sequoia DRE machines for polling places; Sequoia Teamwork for absentee voting; interface to provide consolidated results. Detail on various other provisions of contract including training, acceptance testing, voter education. Costs itemized and detailed. Some trade-in on old vot-o-matic equipment. Total cost \$6,480,460 plus \$10,000 annual maintenance.
- B. Limited use license agreement, relating to software.
- C. EDS election management software, license agreement. Annual agreements on software maintenance, ballot design, ballot printing.
- D. Acceptance testing, detailed procedures.
- E. Maintenance.

This is a detailed, specific, comprehensive contract. A similarly drawn, separate contract covered the pilot program (See Appendix 7) which preceded decision to purchase the system.

Appendix 13

Memorandum Evaluation of a System in Use

Registrar
Clark County
Nevada

CLARK COUNTY, NEVADA

Evaluation of New Voting System in Use

Our system has solved the problems we identified in our previous system. It has met our performance standards. Our main problem was that because of the pilot project route, we ended-up implementing the new system during a Presidential election year when we had the longest ballot in State history: up to 24 different Questions on our ballot, which was already full of offices/candidates. This led to a bottleneck at the machines. We estimate that an additional 315 machines would have eliminated the long lines that we experienced on the General election day. Of those additional machines needed, 147 were early voting machines that we could not reuse on election day, a requirement of which the vendor had not informed us. The vendor is now making software changes to allow reuse of early voting machines on election day. The balance of the machine shortage was a result of two factors: (1) Our unusually high rate of growth--our rolls increased 20% between January and October; and (2) The unprecedented length and complexity of our ballot and voters' unpreparedness upon entering the voting booth.

Accuracy of the system is superlative. During the Primary Election, one machine had an integrity error during the process of a voter casting his/her ballot. As it is programmed to do, it sounded an alarm and displayed an error message. The pollworker had been trained to remove the voter from the malfunctioning machine, list the error message on the Exception Log, staple the voter's receipt (with the voting machine's serial number written on it) to the Exception Log, and call for a machine technician to come to look at the voting machine. However, since this was the first election in which this pollworker had used the new machines, he failed to catch the voter before he/she left the polling place. The machine technicians found upon examination that the final voter's ballot selections had not been added to the machine's voting totals because of the error. However, the voter's ballot image of his individual selections had been captured and preserved. His/her vote selections were added into the machine's vote totals and the ballot was not lost. This system is 100% accurate in recording voter intent.

Because of the system's accuracy and integrity, there were no recounts or election contests in the 1996 elections. In this County, that is unheard of.

Voters surveyed exiting the polls overwhelmingly approved of the new system, most stating how easy it was to use. Results of these surveys will be available next week.

One of our goals was to be able to conduct an extensive early voting program on the new system. We were able to do this and more than 46,000 voters voted on the machines at shopping malls, libraries, community centers, and university campuses throughout the community during the two weeks before the elections.

Other titles in our Innovations series include:

- Vol 1: The Voting Authority Card
- Vol 2: Optical Scanning Technology for Purposes other than Ballot Counting
- Vol 3: Election Signature Retrieval Systems
- Vol 4: Using NCOA Files for Verifying Voter Registration Lists
- Vol 5: Agency Voter Registration Programs
- Vol 6: Motor Voter Registration Programs
- Vol 7: Mail Registration Programs
- Vol 8: Election Document Retention in an Age of High Technology
- Vol 9: Early Voting
- Vol 10: Ballot Security and Accountability
- Vol 11: All-Mail-Ballot Elections
- Vol 12: The Electronic Transmission of Election Materials
- Vol 13: Simplifying Election Forms and Materials
- Vol 14: Recruiting Poll Workers
- Vol 15: Ensuring the Accessibility of the Election Process
- Vol 16: Using the Internet in Election Offices

For information about other
Innovations in Election Administration
contact

**Office of Election Administration
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463**

**Toll Free 800/424-9530 (option #4)
Direct 202/649-1095
FAX 202/219-8500
e-mail bkimberling@fec.gov**

FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

OFFICIAL BUSINESS
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Federal Election Commission
Permit Number G-31