



COUNTY OF LOS ANGELES

REGISTRAR-RECORDER/COUNTY CLERK

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CONNIE B. McCORMACK
REGISTRAR-RECORDER/COUNTY CLERK

February 17, 2004

TO: Supervisor Don Knabe, Chair
Supervisor Gloria Molina
Supervisor Yvonne Brathwaite Burke
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

FROM: Conny B. McCormack, Registrar-Recorder/County Clerk
David Janssen, Chief Administrative Officer

Handwritten signatures of Conny B. McCormack and David Janssen. McCormack's signature is written in black ink and is positioned above Janssen's signature, which is written in blue ink.

UPDATE: NEW VOTING SYSTEM(S) IMPLEMENTATION

Overview

The recent announcement by Secretary of State (SOS) Kevin Shelley mandating an as yet unspecified voter-verified paper audit trail (VVPAT) as a required component of all electronic touchscreen voting systems in California as of 2005 impacts the County's voting system transition plans. This memo provides background information on your Board's action in August 2002 regarding acquiring and implementing new voting system technology in phases to replace the punch card voting system and the timeline that was subsequently established to meet that goal. That timeline contemplated release of a request for proposal (RFP) no later than February 2004 in order to fully convert to an electronic voting system by the 2006 Primary Election.

We recommend continuation of your decision to transition to new voting system technology in multiple phases. However, because there are no electronic voting systems as yet developed, federally tested or state certified that produce a VVPAT, writing system specifications for release of an RFP for acquisition of a fully compliant electronic voting system countywide is not feasible or advisable at this time. We recommend expanding the approach to new voting system(s) implementation by adding another phase as described herein to assure compliance with several new federal Help America Vote Act (HAVA) requirements that become effective in 2006.

The established plan to utilize the County's InkaVote optical scan paper-based voting system to conduct the March and November 2004 elections is not

impacted. As described in the Registrar's December 30, 2003 memo to your Board, InkaVote was successfully launched at the November 4, 2003 Election. The recommended approach at this time is to acquire enhancements to the InkaVote system that would bring it into HAVA compliance by January 1, 2006.

Background

1. Why implement new voting systems?

Los Angeles and eight other California counties are legally required to discontinue the use of punch card voting systems and replace such systems by the March 2004 Primary Election. This requirement stems from the September 2001 action by then California Secretary of State Bill Jones de-certifying further use of the punch card system and a March 2002 ruling by the Los Angeles federal district court that set the March 2004 deadline for implementing a replacement system.

2. What direction has your Board given to implement new system(s)?

In response to the punch card system de-certification, at the August 22, 2002 meeting your Board made the decision to implement new voting systems in multiple phases. This approach was chosen due to several factors including 1) insufficient time and funding to purchase and implement an electronic touchscreen voting system countywide by the March 2004 election (at an estimated cost of \$100+ million); 2) the rapidly evolving state of electronic voting technology; 3) the desire to learn from the experiences of other counties converting to electronic systems, and 4) the unique challenges of new system implementation in a County with four million voters, 5,000 voting precincts and the requirement to translate the ballot into seven languages. Consequently, the phased-in approach called for purchase and installation of an optical scan paper-based voting system, InkaVote, for use during an interim two year period (November 2003-November 2005), followed by countywide electronic voting system implementation by 2006. Thereafter, InkaVote would continue to be used for absentee voting by mail. Acquiring the InkaVote system cost approximately \$3 million.

In recognition that planning and successfully implementing two new voting systems in a two year period would require cooperation and assistance from multiple county departments, in March 2003 a "2 in 2" Task Force was established as a County consulting team to work with the Registrar-Recorder/County Clerk (RR/CC) to achieve this goal. Task Force members include the CAO, CIO, County Counsel, ISD Interim Director, DHR Director, DPSS Director and the Los Angeles City Clerk.

3. How has the Secretary of State's VVPAT mandate impacted the County's electronic voting system implementation plans?

Following the SOS announcement of the VVPAT requirement on November 21, 2003, the County's "2-in-2" Task Force (described above) met in December 2003 to discuss the ramifications and to develop recommendations to present to your Board. The unanimous consensus of the Task Force was that release of an RFP for countywide acquisition of electronic voting equipment is not a prudent course at this time due to the following obstacles:

- No technology currently exists to satisfy the Secretary's mandate to produce individual voter transcripts as contemplated by the VVPAT directive.
- The new requirement for a VVPAT sounds like a minor addition ("print a receipt") but in reality adds a host of complexities. No governmental jurisdiction has attempted this kind of system installation to date. Such equipment is still theoretical, untested and lacks required federal and state certification.
- The SOS mandate for VVPAT caused the City Clerk of Los Angeles to withdraw that City's intention to partner with the County in the financial and logistical acquisition and implementation of an electronic voting system until clarity of standards emerges. The City plans to use InkaVote to conduct municipal elections for the foreseeable future. The goal remains for the City and County to use the same voting system to eliminate voter and pollworker confusion.

4. What are the recommendations for revision to the timeline of phasing-in new system(s) implementation?

The "2 in 2" Task Force is recommending the following revisions to the County's approach to new voting system acquisition:

Phase I included the goal of conducting touchscreen voting at multiple locations in conjunction with the "early" voting period prior to each major countywide election. Since the November 2000 General Election, touchscreen early voting has been conducted with very positive feedback from voters. During the October 2003 Recall election, 42,000 of the County's 2.2 million total votes were cast on the touchscreen system during the early voting period at 12 locations. Also, in partnership with six cities throughout the County, the RR/CC successfully introduced touchscreen voting to all voters at all precincts in those cities on election day, March 4, 2003. For the March 2004 Primary Election your Board has approved 16 locations for early voting which will take place daily February 18-27, 2004.

Phase II involved meeting the mandate to replace the punch card system with an interim paper-based optical scan system. A small ballot optical scan voting system, InkaVote, was determined to be the most appropriate choice due primarily to its similarity to the familiar punch card system and low acquisition and operating cost. Approximately 40,000 InkaVote devices were manufactured throughout 2003. The existing inventory of ballot card readers was modified to tally InkaVote ballots. InkaVote was successfully launched at the November 4, 2003 Uniform District Elections at which 184,000 voters cast ballots. Voter feedback was positive. The March 2004 Primary Election will represent the first countywide use of InkaVote.

Phase III involves implementing a voting system that complies with new federal HAVA requirements by the November 2005 Election. HAVA requires that by January 1, 2006 a voting system must be in place that 1) allows voters who are blind or visually impaired to cast a ballot independently at every voting precinct in the County, and 2) has the capability to advise all voters if they mistakenly marked more than one voting selection in a contest (an "overvote"). New optical scanning equipment (i.e. precinct level ballot tabulators with an audio component for blind voters) is currently undergoing federal testing that would enable InkaVote and all other optical scan paper-based voting systems to meet the new federal requirements. Additionally, this enhancement would greatly speed up ballot counting and announcement of unofficial election results due to the ability of the equipment to encrypt and transmit election data by phone modem to the RR/CC's Norwalk headquarters. Such an enhanced paper-based system would provide an alternative to electronic systems with paper audit trails at substantially reduced cost (approximately \$20 million compared with an estimated \$110 million for acquisition of an electronic system with VVPAT capability). Federal and State certification of such HAVA-compliant optical scan voting system enhancements is anticipated by late 2004.

Phase IV involves continuing the pursuit of the goal to implement a fully tested electronic touchscreen voting system that would be fully compliant with state and federal requirements after development, testing, certification and successful installation of such systems in other counties.

6. How will the County pay for voting system acquisitions/enhancements?

The course charted by your Board in August 2002 to acquire new voting systems in phases was estimated to cost approximately \$107 million including \$100+ million for electronic touchscreen voting equipment and several million to purchase the InkaVote interim optical scan system. The cost of acquiring the InkaVote system, which was completed at the end of 2003, was approximately \$3 million.

Preliminary estimates indicate that connecting a sophisticated printer to each electronic voting device to produce the SOS-required VVPAT will add approximately 10%-15% to the acquisition cost of an electronic system. If that estimate is borne out, the cost would be between \$110 - \$115 million and would also entail greater ongoing costs for each election to purchase paper for the required printer component. Conversely, the proposed enhancement to the InkaVote system to bring it into HAVA compliance and with capabilities to produce speedier election night results (as described above) is estimated to cost approximately \$18-20 million.

State Proposition 41 funds

In 2002 voters approved Proposition 41, the Voting Modernization Bond Act. It authorized issuance of \$200 million for counties to purchase modern voting equipment and to replace punch card systems (3:1 State/County match). It established the Voting Modernization Board (VMB) to allocate these funds. Los Angeles County's reserved share of these funds is \$49.6 million. The County filed our initial plan to phase-in new voting system acquisition in late 2002 and that plan was formally accepted by the VMB. That same year the VMB established a deadline of January 2005 for counties to apply for funding with the understanding that the original allotment per county of remaining funds would be reserved for those counties' subsequent phases once their initial applications for Phase 1 funds were submitted and approved.

The County's application for Phase 1 funding, for reimbursement of our small inventory of touchscreen voting equipment purchased in 2002 for use during the early voting period in advance of major elections, was placed on the VMB's February 9, 2004 agenda. At that meeting the VMB approved the completion of the County's Phase 1 project. Consequently, a check in the amount of \$639,071.25 will be issued soon to reimburse (at 3:1 ratio) the County's expenses incurred to purchase that touchscreen equipment. Plans call for submitting our invoices for reimbursement of Phase II InkaVote voting system expenses later this year. Additionally, at the February 9th meeting the VMB learned that the majority of California counties have yet to apply for Proposition 41 funds and that seven counties are now planning phased-in implementations of new voting systems. They voted to defer discussion of extending the timeline for submitting initial funding applications and reviewing counties' phased-in plans to a subsequent meeting of the VMB.

Federal Help American Vote Act (HAVA) funds

It is still unknown how much HAVA funding will eventually flow from the Federal government through the SOS to the Counties. There are several components of HAVA funds including 1) "punch card buyout funds" that are formula based for the sole use by counties that utilized punch card equipment in the November

2000 General Election, and 2) upon receipt from the federal government, other HAVA funds that will be allocated by the SOS after determining how these funds meet multiple Federal requirements of HAVA. Of these two sources of HAVA funds, only the punch card buyout monies have been sent from the federal government to the SOS.

On November 4, 2003 your Board approved a Resolution applying to the SOS for the County's share - \$15.8 million – of California's allotment of punch card buyout funds. On January 26, 2004 the RR/CC received additional paperwork from the SOS to finalize the application process for these funds which we completed and submitted to that office at the end of January. These punch card buyout funds, together with a portion of either additional HAVA funds or Proposition 41 funds would be sufficient to purchase the InkaVote system upgrade which is estimated to cost approximately \$18-20 million.

Conclusion

In light of the recent SOS mandate to require printers to be attached to all electronic touchscreen voting systems in the State to produce a VVPAT by 2005, it is recommended that your Board postpone the previously planned release of an RFP to acquire a new electronic touchscreen voting system at this time. Currently no electronic voting systems have been developed, tested or certified through federal and state approval processes that produce a VVPAT and no standards or procedures have been promulgated. A decision to slow down acquisition of an electronic touchscreen voting system countywide in no way affects the March and November 2004 elections. The County can use its certified optical scan system, InkaVote, to bridge the gap between the punch card system and the goal of installing a fully electronic voting system in the future when there is less uncertainty and the cost of compliant systems funding has been fully identified.

Due to the above mentioned HAVA requirements, we plan to pursue enhancement of the InkaVote system as described herein. We will keep you advised of developments.

c: "2 in 2" Task Force:

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