



July 27, 2005

Don Vopalensky
Diebold Election Systems, Inc.
1611 Wilmeth Road
McKinney, TX 75069

Dear Mr. Vopalensky:

On March 18, 2005, Diebold Election Systems, Inc. (DESI) submitted an application to the Secretary of State for approval of its voting system for sale and use in California. That proposed system was comprised of the following components:

- GEMS Software, version 1.18.22
- AccuVote-TSX Ballot Station, firmware version 4.6.2, with AccuView Printer Module
- Key Card Tool, version 1.0.1
- Spyrus Voter Card Encoder, version 1.3.2
- VC Programmer, version 1.4.11
- AccuVote-OS precinct tabulator, firmware version 1.96.4
- AccuVote-OS central count tabulator, firmware version 2.0.12 with AccuFeed.

In consideration of this application, the state has reviewed the test reports from the federal voting system testing laboratories; the state and its consultant have conducted their own tests of the system over several days; election officials and members of the accessibility community have reviewed the system and provided feedback. Finally, the Secretary of State has conducted a public meeting and has received extensive public comment and opinion about this system.

The Secretary of State, under Election Code Division 19, Chapter 3, Article 1 is entrusted with the responsibility to evaluate and certify voting systems for use in California. Specifically, EC §19205 stipulates:

The Secretary of State shall establish the specifications for and the regulations governing voting machines, voting devices, vote tabulating devices and any software used for each, including the programs and procedures for vote tabulating and testing. The criteria for establishing the specifications and regulations shall include, but not be limited to, the following:

- (a) The machine or device and its software shall be suitable for the purpose for which it is intended.
- (b) The system shall preserve the secrecy of the ballot.
- (c) The system shall be safe from fraud or manipulation.

In the course of testing your system, my staff has noted problems with paper jamming on the AccuView printer module. Additionally, my staff has noted an additional recurring problem with the AccuVote-TSX that freezes the ballot station and requires it to be rebooted. After extensive testing, these problems remain unresolved.

Therefore, I have determined that the AccuVote-TSX ballot station with AccuView Printer Module, as currently presented for certification, is not suitable for the purpose for which it is intended. Because of this, I must reject the application for approval of this voting system that was submitted last March.

I will review and consider any subsequent application you may wish to make.

Respectfully,

Bruce McPherson
Secretary of State

