



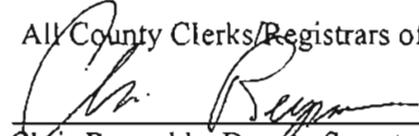
DEBRA BOWEN | SECRETARY OF STATE
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August 31, 2007

TO: All County Clerks/Registrars of Voters (07129)

FROM:


Chris Reynolds, Deputy Secretary of State, HAVA Activities

SUBJECT: **Post-Election Auditing (DRAFT)**

As you know, the recertification orders attached to the Sequoia, Hart and Diebold (now Premier) voting systems state:

“After consultation with jurisdiction users, the Secretary of State shall establish additional post-election manual count auditing requirements, including:

- Increased manual count sample sizes for close races, based on an adjustable sample model, where the size of the initial random sample depends on a number of factors, including the apparent margin of victory, the number of precincts, the number of ballots cast in each precinct, and a desired confidence level that the winner of the election has been called correctly. In establishing sampling requirements for close races, the Secretary of State may impose a specific sampling threshold for a given vote differential or percentage of the margin of victory, taking into account the number of electors and the number and size of the precincts in the race;
- Escalation requirements for expanding the manual count to additional precincts when discrepancies are found;
- Uniform procedures to increase transparency and effectiveness of post-election manual count audits.”

During last week's conference call, the Secretary noted that she would be providing you with a draft copy of the post-election manual count auditing requirements for you to review.

Attached are the conditions the Secretary is considering adopting and she certainly welcomes your input and feedback as part of the consultation process referenced in the recertification orders.

If you have any suggestions or thoughts you would like to share about how to improve the conditions -- or you have questions about how they would actually operate -- please feel free to contact Deputy Secretary of State Jennie Bretschneider at (916) 653-7244 or e-mail her at jennie.bretschneider@sos.ca.gov before September 15, 2007.

Additional Post-Election Manual Count Auditing Requirements

Increased Sample Size for Close Races: Sampling Thresholds

Jurisdiction users shall conduct a manual count of 10% of precincts for any race where the margin of victory is less than 1% or where the margin of victory is *on average* less than five votes for each precinct in the race.

Escalation Requirements for Discrepancies

When discrepancies between the final manual count and the electronic count vote results are discovered, jurisdiction users must take the following steps to resolve the discrepancies:

- The percentage of discrepancies found in the manual count sample for a given race must be presumed to exist in the remaining ballots cast in the race.
- Jurisdiction users shall calculate the discrepancy percentage for each race by comparing the total number of discrepancies found in the manual count sample for the race to the total ballots cast for that race in the manual count sample.
- If the discrepancy percentage represents 10% (one-tenth) of the margin of victory for that race, then additional precincts must be manually counted for that race.
- Additional precincts must be counted in randomly sampled blocks of 5% until the total number of discrepancies presumed to exist – re-calculated using the method above – is smaller than 10% of the overall margin of victory in that race tallied electronically.
- If any discrepancy is found between manually counted VVPAT records and corresponding electronic vote counts that cannot be accounted for by some obvious mechanical problem, then all relevant VVPAT records, memory cards and devices, and DRE machines must be preserved and the Secretary of State must be notified in order to allow for a technical investigation to determine the cause of the problem.
- For multi-winner elections, the margin of victory is the difference between the candidate who had just enough votes to win a seat and next candidate below. For example, for a race with three open seats, the margin of victory would be the difference between the third and fourth place candidates.

Transparency Requirements

Jurisdiction users must ensure implementation of the following procedures to increase transparency and effectiveness of post-election manual count audits:

- The manual count must be conducted in public view. Observers must not be permitted to touch ballots or interfere in any way with the counting, but observers must be permitted to watch the process in a manner that allows them to verify the count.

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- Jurisdiction users shall keep a log to record the manual count process, including the results of each round of manual counting for each precinct included in the sample, how discrepancies were resolved, and details of any actions taken that are contrary to written protocols. The log must be made available to the public.
- Undervotes, overvotes, and cancelled DRE ballots must be tracked and reported as part of the manual count process. (Spoiled ballots are not included here, because they are not electronically tallied. However, since spoiled ballots are remade and then electronic tallied, the remade ballots become part of the manual count if they come from precincts in the manual count sample. Cancelled DRE ballots must be tracked and reported because they appear on the VVPAT roll and it's important to ensure they aren't inadvertently included in the manual count tally.)
- The manual count must be conducted using "blind" counters. Workers performing the manual count must not be provided with the preliminary electronic count, nor should they be told whether or not their result matched the electronic count in case a manual count must be repeated. Poll workers may serve as manual counters but may not be assigned to count the results from a poll where they worked on election day.

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For reference, below is the provision in each of the recertification documents issued on August 3rd regarding post-election manual count auditing:

After consultation with jurisdiction users, the Secretary shall establish additional post-election manual count auditing requirements, including:

- Increased manual count sample sizes for close races, based on an adjustable sample model, where the size of the initial random sample depends on a number of factors, including the apparent margin of victory, the number of precincts, the number of ballots cast in each precinct, and a desired confidence level that the winner of the election has been called correctly. In establishing sampling requirements for close races, the Secretary may impose a specific sampling threshold for a given vote differential or percentage of the margin of victory, taking into account the number of electors and the number and size of precincts in the race.
- Escalation requirements for expanding the manual count to additional precincts when discrepancies are found.
- Uniform procedures to increase transparency and effectiveness of post-election manual count audits.

Diebold Recertification Item 20

Hart Recertification Item 17

Sequoia Recertification Item 20