

STATE OF CALIFORNIA
VOTING MODERNIZATION BOARD
BOARD MEETING
TUESDAY, June 2, 2015
2:00 P.M.

Ronald Reagan Building
Auditorium
300 South Spring Street
Los Angeles, California

Reported by:

Troy A. Ray

APPEARANCES

BOARD

Stephen Kaufman, Chair

June A. Lagmay

Gabriel Sandoval

STAFF

Robbie Anderson

Katherine Montgomery

Ryan Macias

Jana Lean

LOS ANGELES COUNTY

Dean Logan

PUBLIC

David Holtzman

Mark Shaw

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P R O C E E D I N G S

1
2 June 2, 2015

1:30 P.M.

3 CHAIR KAUFMAN: Okay. Now that we have
4 muddled through some of our technology issues,
5 we're going to call the meeting of the Voting
6 Modernization Board to order a bit late but
7 calling it nonetheless.

8 We are -- in case those of you in the
9 audience are not perceptive enough -- we are a
10 little short on a quorum right now. One of our
11 Board members is on the way over, so we're going
12 to start with just a couple items of business.
13 Hope that he'll show up in the interim; and if
14 not, we'll take a few minute break to await his
15 arrival for any action items.

16 So I guess with that, Katherine, do you
17 want to do a roll call and not declare a quorum
18 for the present time?

19 MS. MONTGOMERY: Sure. Stephen Kaufman?

20 CHAIR KAUFMAN: Here.

21 MS. MONTGOMERY: June Lagmay?

22 BOARD MEMBER LAGMAY: Present.

23 CHAIR KAUFMAN: Okay. We have one item of
24 public comment, and that is David Holtzman.

25 So David, if you want to comment on

1 matters that are not on the agenda presently --

2 MR. HOLTZMAN: Yes, thank you, Chairman
3 Kaufman.

4 CHAIR KAUFMAN: I understand that you may
5 have things you want to comment on that are on the
6 agenda, which we can take up when we --

7 MR. HOLTZMAN: Yeah, that I certainly
8 will want to do later.

9 Board members, just briefly, I wanted to
10 say I think you could do a little better job of
11 noticing your meetings. It would be nice if you
12 maintained an email list of people who are
13 interested in receiving the agendas when they come
14 out, because I didn't find out about this meeting
15 until over this weekend, to tell you the truth.

16 I also didn't see on the website some of
17 the materials that might be related to this
18 meeting, such as the actual proposal or
19 application that L.A. County submitted, so it
20 would be great if those could show up on the
21 website, and also the minutes.

22 So my comment on Item 4 is simply that
23 the minutes weren't available to look at in
24 advance of the meeting. So I'm finished with my
25 comment on Item 4 now.

1 So that's what I wanted to say about your
2 procedures.

3 I want to thank you again for doing this
4 in Los Angeles, it's a great convenience for the
5 biggest city in the state.

6 CHAIR KAUFMAN: Thank you, Mr. Holtzman.
7 And we will note the request about trying to
8 perhaps get our agenda out to folks that we know
9 are regulars. Is there something we can do about
10 that?

11 MS. LEAN: Yeah, we can get his contact
12 information and we can put him on the list to
13 receive the agenda.

14 It was noticed ten days before the
15 meeting. It's also posted on the Voting
16 Modernization Board's website. We are in the
17 process of redesigning that website, making it
18 more user friendly so it's easier to find.

19 It was posted but perhaps it is not the
20 easiest thing to find on the website, so we will
21 take note of that and make sure that happens in
22 the future.

23 CHAIR KAUFMAN: Yeah, we'll make every
24 effort to do what's within our power to do on
25 that.

1 MR. HOLTZMAN: Thank you. My email
2 address is on the list back there.

3 MS. LEAN: Great.

4 CHAIR KAUFMAN: Excellent.

5 Why don't we skip ahead to Item No. 6, a
6 review of our schedule. So now that you're here,
7 Mr. Holtzman, you'll hear what we have planned for
8 the next few months.

9 MR. HOLTZMAN: Thank you.

10 CHAIR KAUFMAN: And if staff can kind of
11 review where we're at for our upcoming schedule.

12 MS. LEAN: So we have four meetings
13 scheduled so far for the rest of the year. It's
14 contingent upon getting additional information
15 from Los Angeles County and any other county that
16 wants to come forward to the Board.

17 The first meeting after today's meeting
18 that's scheduled is for Thursday, July 23rd. The
19 location is to be determined but is at the request
20 of the staff that that location be in Los Angeles.

21 CHAIR KAUFMAN: I thought you said
22 Sacramento.

23 MS. LEAN: I'm sorry, in Sacramento. I'm
24 in Los Angeles.

25 CHAIR KAUFMAN: Okay.

1 MS. LEAN: The next meeting is scheduled
2 for August 13th, which is a Thursday. We also have
3 another meeting scheduled for September 3rd, which
4 is a Thursday. And we also have one scheduled for
5 October 9th, which is a Friday.

6 And all those locations are to be
7 determined, and once we have information on which
8 counties are coming forward or if Los Angeles is
9 coming forward, we will be in discussions with
10 those counties and the members to make sure where
11 to have that meeting.

12 CHAIR KAUFMAN: Okay. And to be clear,
13 all these dates have been discussed with or
14 cleared by the members, so hopefully we will avoid
15 as many scheduling conflicts as possible given
16 that these have all been precleared on peoples'
17 schedules.

18 MS. LEAN: We will notify everyone three
19 weeks ahead of time whether or not we have
20 received any information to come forward to the
21 Board, and only if we absolutely have to have the
22 meeting will we have it; otherwise, it'll be
23 cancelled and then anything else will come up for
24 the next month's scheduled meeting.

25 CHAIR KAUFMAN: Okay.

1 BOARD MEMBER LAGMAY: But the 23rd is
2 anticipated for Sacramento; is that correct?

3 MS. LEAN: Yes.

4 BOARD MEMBER LAGMAY: Thank you.

5 CHAIR KAUFMAN: Okay. Anything else on
6 scheduling from you?

7 BOARD MEMBER LAGMAY: No, no thank you.

8 CHAIR KAUFMAN: Okay. All right. So other
9 than adjournment, it looks like the other items
10 that we have on our agenda are going to require a
11 quorum for adoption, and I don't want L.A. County
12 to present until we have our third member here.

13 So we're going to ask you all to indulge
14 with us for just a short while until Mr. Sandoval
15 makes his arrival, and we'll take a short break
16 and then we'll proceed with the rest of the
17 meeting. Okay. Thank you.

18 (Off the record 2:35 p.m. to 3:30 p.m.)

19 CHAIR KAUFMAN: Okay. We're going to go
20 back on the record here, and we've been joined by
21 Mr. Sandoval.

22 BOARD MEMBER SANDOVAL: My apologies.

23 CHAIR KAUFMAN: Our third Board member,
24 and we now have a quorum to proceed.

25 I want to thank everybody here for your

1 patience. We wanted to get through this today and
2 so we'll proceed accordingly.

3 If folks have public comment on a matter
4 that's agendized, we'll take public comment at
5 that time, sir.

6 So we're going to proceed with Item No.
7 4, which is the adoption of the March 26, 2015
8 Actions and Meeting Minutes. Ms. Lagmay has some
9 nonsubstantive corrections to the minutes, so
10 she's going to submit those to staff to correct.
11 But if we could get a motion to approve the
12 minutes.

13 BOARD MEMBER SANDOVAL: (Inaudible)

14 CHAIR KAUFMAN: Subject to the changes?

15 BOARD MEMBER SANDOVAL: Yes.

16 CHAIR KAUFMAN: Okay. Second?

17 BOARD MEMBER LAGMAY: I second.

18 CHAIR KAUFMAN: We'll take a vote on
19 that.

20 MS. MONTGOMERY: Stephen Kaufman?

21 CHAIR KAUFMAN: Aye.

22 MS. MONTGOMERY: June Lagmay?

23 BOARD MEMBER LAGMAY: Aye.

24 MS. MONTGOMERY: Gabriel Sandoval?

25 BOARD MEMBER SANDOVAL: Aye.

1 CHAIR KAUFMAN: Okay, great,
2 Now we're going to turn to Item No. 5 on
3 the agenda, which is the project documentation
4 plan and funding award approval for Los Angeles
5 County. We're going to ask staff to provide us
6 with the staff report. We'll probably have some
7 questions from the Board. Then we'll have L.A.
8 County speak to their submission after the staff
9 presentation, and then we'll take any public
10 comment that there is on the matter.

11 So Katherine.

12 MS. MONTGOMERY: Thank you.

13 FEMALE VOICE: (Inaudible)

14 CHAIR KAUFMAN: As I just indicated, we
15 will do public comment following L.A. County's
16 presentation.

17 Go ahead, Katherine.

18 MS. MONTGOMERY: Los Angeles County plans
19 to wrap up their design and engineering phase,
20 Phase 3, in March of 2016 and move into their
21 manufacturing and certification phase, Phase 4, in
22 June of 2016.

23 Los Angeles County plans to complete
24 their design and engineering Phase 3 in March of
25 2016 with the anticipation of producing certified

1 units beginning in the fall of 2017.

2 Los Angeles County is in the process of
3 completing their design and engineering phase of
4 what they refer to as the voting systems
5 assessment project or commonly referred to as
6 VSAP.

7 The VSAP was launched by Los Angeles
8 County in response to growing voting system needs
9 and unique challenges faced by the County due to
10 its size and complexity. According to Los Angeles
11 County, the goal is to acquire a new voting system
12 for the County through a transparent process that
13 engages the public and is founded on sound data.
14 The County asserts this system will be designed
15 using a human-centered process which will produce
16 a system that best suits the needs of voters and
17 will ultimately be owned by the public.

18 As has been discussed at previous Voting
19 Modernization Board, or Board meetings, in October
20 of 2013 Senate Bill 360 was signed into law by
21 Governor Brown. SB360 allows a county to contract
22 and pay for funding to be allocated by the Board
23 for the following.

24 One, research and development of a new
25 voting system that has not been certified or

1 conditionally approved by the Secretary of State
2 and uses only nonproprietary software and firmware
3 with disclosed source code except for unmodified
4 commercial off-the-shelf software and firmware as
5 designed.

6 Two, manufacture of the minimum number of
7 voting system units reasonably necessary for
8 either of the following purposes.

9 A, to test and seek certification or
10 conditional approval for the voting system;

11 B, to test and demonstrate the
12 capabilities of the voting system in a pilot
13 program as defined.

14 The counties may use the authorization of
15 a Funding Award Letter to secure a contract with a
16 vendor and/or consultant to begin the research and
17 development process of a proposed voting system.
18 During the research and development process,
19 counties may come to the VMB iteratively to
20 request further authorization or funding as the
21 research and development phases progress.

22 In October of 2014, Los Angeles County
23 entered into an agreement with IDEO for the
24 development of detailed designs and engineering
25 specifications for a new ballot marking device

1 sometimes referred to as BMD, and related voting
2 system components. The completion of this phase
3 will provide Los Angeles County with the necessary
4 engineering package to transition into the
5 manufacturing and implementation of a new voting
6 system. It is Los Angeles's intent to certify and
7 implement the new voting system for use in future
8 elections.

9 Recently, Los Angeles County provided the
10 Board with invoices or documentation for items in
11 the amount of \$8,275,829 for work already
12 completed. Using the 3:1 match formula, Los
13 Angeles County is seeking reimbursement in the
14 amount of \$6,206,871.75 for this purpose.

15 The County also seeks authorization for
16 funding in the amount of \$7,148,000 for future
17 expenditures. Using the 3:1 match formula, Los
18 Angeles County in the future will be seeking
19 reimbursement in the amount of \$5,361,000 for this
20 purpose.

21 These two requests for reimbursement,
22 current and future, comprise the county requested
23 funding award amount of \$11,567,871.75.

24 Work already completed: The \$8,275,829
25 requested for work already completed can be broken

1 down into three categories: invoices for
2 deliverables, travel costs, and personnel costs.

3 Deliverables: At the request of the
4 staff to the Board, Los Angeles County has
5 provided copies of 16 invoices from IDEO and one
6 invoice from Atkins Research Global, along with
7 the supporting documentation regarding each
8 deliverable in the amount of \$7,633,020.

9 Travel costs: Travel expense claims for
10 Los Angeles County staff, the VSAP Advisory
11 Committee, which provides expert analysis on
12 initial research findings and continuous input and
13 guidance throughout the project. And the VSAP
14 Technical Advisory Committee, which provides
15 ongoing technical expertise in the fields of
16 usability, accessibility, and security --
17 membership rosters for both of these committees
18 are attached -- have been submitted to the Board
19 in the amount of \$25,719.

20 Before these costs can be considered for
21 reimbursement, a succinct itemization of travel
22 costs, including specific trips and associated
23 staff, will need to be provided to the Board.

24 Personnel Costs: The County has
25 submitted a request for the reimbursement of

1 County personnel costs as they relate to their
2 work on VSAP. Those claims total \$617,090.
3 Specifically, Los Angeles County is asking the
4 Board to reimburse them for salaries of those
5 County staff members working full-time on VSAP.

6 The County's salary calculations also
7 include employee benefits and overhead. Employee
8 benefits include benefit costs other than salaries
9 or wages earned by County employees. These
10 benefits include health, dental, and life
11 insurance, unemployment, disability, workers
12 compensation, deferred compensation plans,
13 etcetera.

14 Overhead costs include those costs that
15 cannot be readily identified to a specific service
16 but are incurred while employees perform their
17 duties. For example, utilities, custodial,
18 security, and administrative functions such as
19 payroll, personnel, and accounting.

20 Before these personnel costs can be
21 considered for reimbursement, a succinct
22 itemization that clearly differentiates between
23 the cost of employees' salaries and wages,
24 benefits and overhead will need to be provided to
25 the Board.

1 This is the first time the Board has been
2 asked to cover the cost of overhead. The Board
3 will need to decide if Proposition 41 Bond funds
4 can be used to reimburse counties for overhead
5 while conducting research and development as it
6 relates to a new voting system.

7 It should be noted that while
8 administering the Health America Vote Act, or
9 HAVA, Secretary of State staff has decided that
10 HAVA funds will not be made available for
11 reimbursement to counties for the cost of overhead
12 while staff performs work specific to HAVA.

13 Future expenditures: Los Angeles County
14 is also requesting that the Board authorize
15 funding in the amount of \$7,148,000 for future
16 expenditures. The County expects to be invoiced by
17 IDEO during the remainder of 2015 and early 2016
18 as their design and engineering phase, or Phase 3,
19 wraps up.

20 It is our recommendation that Los Angeles
21 County's Project Documentation Plan be approved
22 and the Board authorize the issuance of a Funding
23 Award Letter in the amount of \$11,567,871.75.

24 At this time we recommend the
25 reimbursement of the County's deliverables in the

1 amount of \$7,633,020.

2 Los Angeles County must submit a fully
3 executed research and development payment request
4 form, Appendix E-2, in the Funding Application and
5 Procedural Guide, and include a copy of each
6 invoice along with documentation regarding the
7 matching fund requirement before reimbursements in
8 the amount of \$5,724,765, which is the \$7,633,020
9 amount reduced by the 3:1 match formula, will be
10 made.

11 At this time we cannot recommend
12 reimbursement for either the travel costs,
13 \$25,719, or the personnel costs, \$617,090, as they
14 have been submitted to the Board as part of the
15 project documentation plan until such time Los
16 Angeles County provides concise itemization of all
17 associated costs.

18 Additionally, when Los Angeles County is
19 ready to submit invoices for payment related to
20 the authorized funding in the amount of
21 \$7,148,000, it is the recommendation that the
22 County must come back before the Board in order to
23 provide an update regarding the progress of the
24 project before reimbursement can be made.

25 CHAIR KAUFMAN: Okay. Before we turn to

1 the County, I wanted to ask a couple questions of
2 clarification from Katherine or Jana, just so
3 we're all clear as the Board on what the
4 recommendation is that the staff is making.

5 So we've got a recommendation as it
6 currently stands to issue a Funding Award Letter
7 that covers everything that the County has
8 requested, correct?

9 MS. MONTGOMERY: That's correct.

10 CHAIR KAUFMAN: Including past
11 deliverables and future costs.

12 MS. LEAN: And future costs. Once they
13 come forward and have the additional itemization
14 for the personnel costs, which includes the travel
15 and overhead, and when they have the additional
16 information moving forward on any deliverables
17 that they get moving forward.

18 CHAIR KAUFMAN: Okay. So there's the
19 Funding Award Letter, which is kind of everything,
20 and then there's what they're being reimbursed for
21 pursuant to the Funding Award Letter.

22 MS. LEAN: Correct.

23 CHAIR KAUFMAN: And the current
24 recommendation is we issue an award letter for
25 everything, and then we reimburse for the

1 deliverables.

2 MS. LEAN: Correct.

3 CHAIR KAUFMAN: And that we await
4 additional information to make a decision on
5 reimburse of travel costs, personnel expenses, and
6 other future, I guess deliverables that will be
7 forthcoming in accordance with their contract.

8 MS. LEAN: Correct.

9 CHAIR KAUFMAN: But I guess as a
10 preliminary matter this Board still has to make a
11 decision about whether we feel that what you've
12 classified as overhead expenses are in fact
13 covered, covered VMB expenses, and want to make
14 that award. That would affect the Funding Award
15 Letter too if we made a determination that that
16 was not, for example, a reimbursable expense.

17 MS. LEAN: That's correct. We would have
18 to adjust the Funding Award Letter amount.

19 CHAIR KAUFMAN: Okay. And when you say
20 that overhead expenses, the percent the Board has
21 been asked to cover the cost of overhead, you're
22 referring just to the overhead component, you're
23 not referring necessarily to personnel costs, or
24 when you're referring to overhead here are you
25 talking about personnel travel and overhead?

1 MS. LEAN: Personnel travel and overhead.

2 CHAIR KAUFMAN: Okay, so all of that is
3 being referred to colloquially as overhead.

4 MS. LEAN: Colloquially in one lump sum
5 as overhead.

6 CHAIR KAUFMAN: Yeah. I mean, those are
7 the items that jumped out at me when I was going
8 through this about whether they're even items that
9 we could or should be awarding under the authority
10 that's given to us. And I guess that'll have to be
11 an issue for the Board to take up.

12 But to clarify, we could, depending on
13 where we come out with those issues, we could
14 issue a Funding Award Letter to cover those
15 matters that we know and are clear about and have
16 consensus on today. Like if we were to award the
17 deliverables and still visit the issue of these
18 other issues, overhead and what have you.

19 MS. LEAN: At a later date or different
20 meeting, that's correct.

21 CHAIR KAUFMAN: If we chose to go that
22 route.

23 MS. LEAN: Correct.

24 CHAIR KAUFMAN: Did you have any follow-
25 up, June?

1 BOARD MEMBER LAGMAY: Yeah. That jumped
2 out at me too. Maybe if I iterate it in a
3 different way so that I can personally understand
4 it.

5 So it appears to me that the award of a
6 Funding Award Letter is a different concept than
7 the actual payment of costs.

8 MS. LEAN: Correct.

9 BOARD MEMBER LAGMAY: So in other words,
10 a Funding Award Letter is almost like an
11 appropriation or an allocation or an escrow or a
12 putting aside, but the money is not guaranteed to
13 be paid out.

14 MS. LEAN: Until we have sufficient
15 invoices, correct, or deliverables.

16 BOARD MEMBER LAGMAY: That's, again, a
17 separate process then when the County comes back
18 with actual invoices, which the Board peruses and
19 upon staff recommendation says yes, pay A, B and
20 C, but do not pay D, E and F.

21 MS. LEAN: It's a little bit different
22 moving forward for this under SB360. Previously
23 there was a contract for an entire amount and when
24 they're delivered voting equipments, then we would
25 issue, the Board would issue a Funding Award

1 Letter for the entire contract amount, and then
2 once those invoices come in, they're reviewed by
3 staff, it's gone over with the Chair before we
4 make any sort of payment.

5 Typically, we wouldn't necessarily have
6 to come back in front of the entire Board and have
7 a meeting to go over those invoices, but because
8 this is a new process and it was anticipated with
9 this new process, we're suggesting that if
10 anything that isn't approved today would need to
11 come back in front of the Board for a discussion.
12 Or if there's anything that you don't feel
13 comfortable with moving forward at this time until
14 we have different information or specific
15 documentation that meets your needs for any kind
16 of specific payment, that's what we're suggesting
17 too.

18 Whatever you're feeling is comfortable
19 and is consistent with SB360 and what's allowable
20 under that bill and related to the voting
21 modernization fund, that's what it is.

22 So in the past what we have done under
23 other project documentation plans is if we had the
24 contract here we would recommend for the full
25 amount of what's being requested by the County.

1 So I think what Mr. Kaufman, if I
2 understand your question, sir, is what
3 specifically has been delivered and what has been
4 contracted for and what we can move forward with
5 today. And if I'm understanding you, that's
6 potentially what you would feel more comfortable
7 with moving forward with?

8 CHAIR KAUFMAN: Well, I want to hear what
9 the County has to say and we'll have a
10 conversation here, but I just kind of wanted to
11 know what the spectrum of our options are, because
12 my gut reaction in looking at this was that there
13 were certain items that seemed to be in that
14 comfort box or whatever way we want to refer to
15 it, and then there's some other stuff that's very
16 new that we may decide is appropriate, but we
17 haven't really contemplated items like that before
18 and I think we need to have a conversation about
19 it.

20 So that was just my initial thought is if
21 we felt like we needed to have more conversation
22 about that, you know, can we still issue a funding
23 award based on what we know and what we're
24 comfortable with and potentially hold off on other
25 pieces with it, if that's what it came to.

1 MS. LEAN: That's absolutely an option.
2 And we could give you the funding amount award
3 that is for deliverables that they've gotten so
4 far and that you have been presented with, and
5 then anything else moving forward we can have them
6 come back to us, present us with more information,
7 do another staff report and go through each one of
8 those items.

9 CHAIR KAUFMAN: Because there's a
10 difference between saying we've approved this, now
11 just give us the documentation to show you've
12 incurred this; that's one thing. And then it's
13 another thing to say, well, we're not sure we want
14 to approve this, we still need to figure out if
15 this even falls into that category.

16 MS. LEAN: That's correct.

17 So Los Angeles County does have the
18 formula that was originally adopted for the Voting
19 Modernization Board, they have approximately \$49
20 million in their allocation, so that they do have
21 that entire allocation that's earmarked for Los
22 Angeles County.

23 But as we've talked about previously
24 under project documentation plans, they come
25 forward iterably, most of the counties have, to

1 get different portions of their voting systems. So
2 while this is a whole new process, we thought we'd
3 bring it all forward what they've requested and
4 take it to your opinions.

5 CHAIR KAUFMAN: Okay. Mr. Sandoval,
6 before we hear from L.A. County did you have any
7 process questions you wanted to ask staff?

8 BOARD MEMBER SANDOVAL: I'd like to hear
9 what the County has to say first. And I agree with
10 you that there's a two-step process. One is what
11 is permissible first, and then we make a decision
12 whether or not that's something that is going to
13 be supported by whatever the County says in terms
14 of those matters that are already permissible
15 clearly under governing authority. But I would
16 like to hear what the County has to say first on
17 these issues.

18 CHAIR KAUFMAN: Okay. Mr. Logan, are you
19 going to take the lead here? Welcome to our Board
20 meeting, and thank you to you and your entire
21 group for coming here today, and we apologize for
22 the delay but we wanted to make sure you had your
23 chance to be heard and considered today.

24 MR. LOGAN: Great. Well, thank you very
25 much. So good afternoon, Chairman Kaufman, Mr.

1 Sandoval and Ms. Lagmay. It is good to be here,
2 and despite the delay, I do appreciate being in
3 L.A. County and your accommodation in that regard.

4 My name is Dean Logan. I am the Registrar
5 Recorder County Clerk for Los Angeles County, and
6 I want to thank the Board for considering our
7 funding proposal today.

8 I also want to take just a moment to
9 thank the staff from the Secretary of State's
10 office who have worked on this, as has been noted
11 and probably will be noted again throughout the
12 rest of the meeting. We're in new territory here
13 with regard to the Prop 41 funding and the changes
14 that were made to the use of those funds under
15 Senate Bill 360, so we appreciate the work that
16 they've done to help us prepare the funding
17 package and to prepare the information for you
18 today.

19 Before I address the specific funding
20 request that's before you for consideration, I
21 would like to take a moment to give you a brief
22 update on the voting systems assessment project. I
23 was unable to be here at the last meeting but I
24 know that you were given an overview and
25 presentation of the background of the project.

1 But I wanted to let you know that last
2 week our internal project team along with the
3 design firm IDEO conducted user experience testing
4 with the latest prototypes of the ballot marking
5 device. The testing sessions focused on particular
6 voter categories where obstacles or barriers to
7 voting have been issues in the past and have been
8 identified as issues with current voting systems.

9 Specifically, we had user sessions with
10 senior citizens, disabled veterans, voters with
11 limited vision, Spanish speakers, Korean speakers,
12 and new or inexperienced voters. All total out of
13 three days worth of sessions last week, which were
14 fairly dynamic and intense, we had 176
15 participants come through, touch the devices, walk
16 through a scenario and give valuable feedback that
17 I think will be of particular value, quite
18 frankly, not just to this project but overall to
19 the desire for an improved and more modernized
20 voting experience in California, and that
21 certainly parallels well with conversations going
22 on in Sacramento with the State Legislature right
23 now about potentially fundamentally changing some
24 of the ways elections are conducted in California.
25 So I did want to let you know about that.

1 The funding authorization before you
2 today comes at a critical time for the project as
3 we move toward completion of the design and
4 engineering phase, so getting those tangible
5 deliverables that will actually lead to a public
6 and competitive procurement process that is still
7 yet to be defined, but that is the next step once
8 we have the design and engineering phase
9 completed.

10 Los Angeles County did submit an
11 application to your Board for California
12 Proposition 41 Voting Modernization Bond Act funds
13 through a project documentation package dated
14 March 18th, and those were received by your Board
15 on April 10th.

16 At this time, as was indicated in the
17 staff report, we are requesting, first,
18 authorization of funding for approximately \$11.6
19 million, which is 75 percent of the approximately
20 \$15.4 million total projected cost of the current
21 and prior activity.

22 Secondly, we are requesting payment for
23 research and development expenses that have
24 already taken place in the project in the amount
25 of just over \$6 million. And again, that's 75

1 percent of the total of close to \$8.3 million
2 detailed in documents you've received. So we are
3 asking for approval of those funds.

4 I understand that staff has requested
5 additional information on the travel and personnel
6 costs that they received. We certainly understand
7 that and appreciate that. We're in the process of
8 gathering that data and will provide that at a
9 future time, and we're certainly prepared to come
10 to future meetings to address those issues and
11 have no objection to that. I think that speaks to
12 the transparency both of the project and of the
13 process that you oversee.

14 I would like to address just briefly the
15 issue of the cost of overhead in general since it
16 sounds like that is a new area for you and for all
17 of us, and I think it's something that's specific
18 to the new scope that was provided under SB360,
19 and I know that you're likely not to be making a
20 decision on that today but I do want to give you
21 some feedback just to consider.

22 These costs are an important component of
23 the project and we believe they should be
24 considered for reimbursement by this Board. As you
25 may be aware, project overhead and deliverables

1 are tightly integrated and these types of costs
2 are not uncommon within technology related
3 contracts.

4 I think what is different about this than
5 past funding prior to SB360 is those funding
6 requests have been primarily for the purchase of
7 equipment, so those are tangible equipment
8 purchases that came in place and were implemented.

9 We're talking about research and
10 development, and we're talking about a publicly
11 owned system, so there is a deliberative process
12 that we have to go through. We've intentionally
13 conducted the project in a way that has a high
14 level of transparency, a high level of
15 involvement. We have two very active advisory
16 boards that were referenced in the staff report,
17 an ongoing advisory committee as well as a very
18 well respected technical advisory committee. And
19 in order to have that level of expertise and
20 involvement in a project of this magnitude, we
21 need to be able to engage those people, and in
22 order to do that, we need to be able to get them
23 to meetings and to presentations so they can see
24 and hear the research and advise us on that, so
25 there are costs associated with that that would

1 not be associated with a typical procurement of
2 equipment, and so I would just ask that you keep
3 that in mind.

4 I also would say that in the spirit of
5 the proposition and in the spirit of Senate Bill
6 360, the money that has been allocated on a
7 formula basis to cover modernization of voting
8 equipment in L.A. County, based on our projections
9 for the project, is sufficient to cover those
10 costs and that money is so we're not competing
11 with other jurisdictions or other purchasers for
12 that money, so I'd ask that you consider that as
13 well.

14 We've invested significant resources
15 including overhead costs in support of modernizing
16 the voting system, and there are no other
17 dedicated sources of funding for those activities.
18 Without the funding that comes through this
19 process, we would be hard pressed to be able to
20 absorb that, much the way we're asked to absorb
21 the cost of special vacancy elections that we
22 conduct on a regular basis in Los Angeles County.

23 So I strongly urge your Board to include
24 those costs among those that are reimbursable.
25 Again, we appreciate that there's a level of

1 documentation that's needed for that. We want to
2 be prudent in that. We want to maintain the
3 integrity of this funding source and the integrity
4 of our project, and we're prepared to work with
5 your Board and the staff to be sure that you get
6 whatever detailed documentation you need for that.

7 So the request before you today is
8 necessary to fund the continued research and
9 development of a new voting system and the
10 development of accompanying manufacturing and
11 design specifications that we fully intend to move
12 forward with public procurement options for the
13 manufacturing, certification, and implementation
14 of a new voting system for Los Angeles County.

15 I thank you for your time and
16 consideration of our request. I appreciate your
17 availability and interest in this very important
18 project.

19 I want to thank also the members of the
20 public. It's somewhat discouraging that we don't
21 see more members of the public actively engaged in
22 this process, but I can tell you within our
23 project there is a high degree of involvement and
24 public participation.

25 So again, I thank you and I'm available

1 to answer any questions at this time.

2 CHAIR KAUFMAN: Thank you, Mr. Logan. I
3 guess again I just want to be clear that we're all
4 operating under the same understanding about the
5 figures that are in front of us. I don't know if
6 I'm the only one who's still a little unclear on
7 it so just want to walk through it with you.

8 MR. LOGAN: Sure.

9 CHAIR KAUFMAN: If that's okay, because
10 you made reference to the \$11.6 million figure
11 that you referred to as, I guess, current costs?

12 MR. LOGAN: It's the formula, the 75
13 percent of the current costs and existing
14 investment that the County's already made.

15 CHAIR KAUFMAN: Okay. And that includes
16 the payments that have been made to IDEO, right?

17 MR. LOGAN: Under our current contract
18 with them, correct.

19 CHAIR KAUFMAN: Under your current
20 contract, the already made payments. And then also
21 part of that component are the personnel costs,
22 travel and other overhead that make up that amount
23 of, let's call it sunk costs that you've already
24 incurred.

25 MR. LOGAN: Correct.

1 CHAIR KAUFMAN: And then in addition to
2 that, on the research and development side there
3 is money that was specified for future
4 expenditures, which I guess according to the staff
5 memo, was \$7 million of which 75 percent I guess
6 is in the \$6 million range. And that includes IDEO
7 contract payments, future IDEO contract payments,
8 correct?

9 MR. LOGAN: Yeah, that represents the
10 remaining deliverables of our current engagement
11 with IDEO.

12 CHAIR KAUFMAN: And does that figure
13 include any additional personnel overhead costs on
14 the research and development side or is that
15 strictly a number that includes the IDEO contract?

16 MR. LOGAN: That's specific to the
17 contract with IDEO. Assuming that your Board makes
18 a policy based on the current funding request with
19 regard to those overhead or what you described as
20 sunk costs, we would anticipate coming forward in
21 the future for additional reimbursement as those
22 costs accrue in the course of the project. But
23 again, we don't have a specific amount for that at
24 this time so that's not included in the funding
25 authorization so we would come with a separate

1 request for that.

2 CHAIR KAUFMAN: Okay. Ms. Lagmay, did you
3 have any questions for Mr. Logan?

4 BOARD MEMBER LAGMAY: Not specific to
5 Dean. When we get back to discussing the staff
6 recommendation I want to weigh in, but I think
7 he's described his side of the story very well,
8 thank you.

9 CHAIR KAUFMAN: Okay. And Mr. Sandoval?

10 BOARD MEMBER SANDOVAL: No.

11 CHAIR KAUFMAN: We may ask you to come
12 back and address --

13 MR. LOGAN: I'll stick around.

14 CHAIR KAUFMAN: -- additional questions,
15 you or your staff. So yeah, don't go too far.

16 MR. LOGAN: Thank you.

17 CHAIR KAUFMAN: And we received one
18 public comment card from David Holtzman on this
19 matter, so Mr. Holtzman.

20 MR. HOLTZMAN: Thank you, Chairman
21 Kaufman, Board members. Last time I was here at
22 your meeting last time and I was talking a little
23 bit about rank choice voting. I'm not here to talk
24 about rank choice voting today. I'm here to talk
25 about a constitutional issue that bars your

1 approval of the proposal and request that's before
2 you under this agenda item. I was a little
3 hesitant to bring it up last time because I think
4 bringing it up last time committed me to follow
5 through and pursue litigation if need be. And I
6 also didn't want to come across as someone who was
7 willing to let a constitutional violation slide if
8 my pet project, rank choice voting and runoff
9 voting was included. So I have actually gone and
10 had a preliminary discussion with counsel about
11 bringing litigation if this item is approved.

12 So let me remind you, first of all, I did
13 flag a couple of things last time. I also flagged
14 the possible need for Ms. Lagmay to recuse herself
15 because she was on one of the committees at one
16 point for the voting system assessment project.
17 You'll see the committee listing in the staff
18 report today that shows Holly Wolcott, who is the
19 current City Clerk of the City of Los Angeles --
20 June Lagmay was on the committee when she was the
21 city clerk of our fair city. And that's not a
22 monetary conflict but it's something she or you
23 all might want to consider.

24 The constitutional violation, I simply
25 pointed you to the one section, the first sentence

1 of Article 16 of the State Constitution, to find
2 whether it would be a constitutional issue with
3 relying on SB360 to issue funds under Prop 41.

4 If you're a person like I am who's
5 involved in municipal election reform and you read
6 that sentence, you automatically see the issue,
7 because it's very much like an issue familiar to
8 people involved with municipal election reform.

9 The City Constitution, Article 11,
10 Section 5, says a city can choose its own election
11 method by specifying it in the city charter. And
12 the Constitution is clear, the election method has
13 to be specified therein. The word that's used in
14 the city Constitution is "therein".

15 So that means since a city charter
16 amendment has to go before a vote of the people,
17 that means there is accountability to a voter. The
18 same structure, the same word "therein" is used
19 twice actually in the city section of the
20 Constitution to which I called your attention at
21 the last meeting.

22 So I submitted a written summary of the
23 issue. I was going to at this point in my
24 testimony ask that you take a break because you
25 have such a long meeting and not much to do during

1 the two hours that were allocated before we passed
2 those two hours. I would like for you to read that
3 submission and consider the argument, basically
4 that SB360 was not -- well, first of all, that
5 Prop 41 could not constitutionally provide for
6 (inaudible) code amendment by the Legislation.

7 And also the Legislature in enacting
8 SB360 could not amend the Bond Act. In fact, under
9 the terms of Prop 61, the constitutional terms of
10 Prop 61, a two-thirds vote is required and SB360
11 didn't even get a two-thirds vote of both houses,
12 so there's another ground under which it might be
13 considered invalid.

14 But my argument today is about the
15 constitutional violation, the Constitution which
16 does not allow the Legislature to essentially get
17 a player to be named later, a purpose to be named
18 later. It's about how the Constitution, as I
19 specified in my written submission, says that the
20 specific object of a bond act has to be in the
21 bond act and it has to go before the voters.

22 So it's kind of ironic that we have a
23 registrar of voters now today coming before you
24 asking to do something without putting it before
25 the voters as required by the State Constitution.

1 I think that's somewhat disrespectful to voters.

2 Now, last time I was here, I heard you
3 all take an oath, or at least the new members of
4 the committee (sic) take an oath to -- of the
5 Board -- take an oath to serve the Constitution of
6 the state of California. And this is such an
7 obvious violation of the state of California, I
8 don't think it would be sufficient to say, well,
9 nothing's unconstitutional until it's been
10 declared so by the court.

11 The plain language of the Constitution
12 clearly indicate that using Prop 41 funds for
13 anything other than the specific object stated
14 therein, which was to buy already certified
15 equipment, would be a violation of the
16 Constitution.

17 So it's plain to see and I hope you'll
18 uphold your oath to serve the Constitution and not
19 also put the state at risk of having to pay
20 attorneys fees and costs of litigation, which
21 would probably ensue if you vote to approve the
22 proposal as put forth before you today.

23 I know you want to finish your job, get
24 all the money that's been allocated out; you
25 mentioned that last time, but I think you really

1 have to choose from the available menu of
2 certified equipment as something to be purchased.
3 That's the only thing that can be purchased using
4 Prop 41 funds because it's the only purpose the
5 voters of the state of California have agreed to.

6 At this point since we have passed our
7 time that was noticed for the meeting, you might
8 actually consider taking this matter under
9 advisement and bringing it up again at a future
10 meeting.

11 My parking meter actually runs out at
12 4:30 because I didn't expect to come later, but if
13 you think you can wrap it up today, obviously you
14 can do so at your discretion, but that's really
15 what I wanted to say.

16 My comments are the written submission
17 that I provided. I have, if you really need to see
18 it, the vote count in the Assembly for SB360. It
19 got 53 Ayes and the understanding is you need 54
20 Ayes in the Assembly for two-thirds vote, so
21 that's another thing that's there.

22 Anyway, thank you for your time and thank
23 you for again holding your meeting in Los Angeles.

24 CHAIR KAUFMAN: Thank you, Mr. Holtzman,
25 we appreciate your thoughtful comments. I'll just

1 say for the record that SB360 was passed by the
2 Legislature, signed by the Governor. It is the law
3 of the state. This Board has followed the
4 direction given by the Legislature and we have
5 adopted our policies accordingly based on what is
6 the current law of the state, and so we will make
7 decisions based on that and we don't intend to
8 litigate here in these meetings the issue of
9 SB360. That's an issue that was presented to the
10 Board a year ago and decisions that were made
11 then, so it's the duty of this Board to proceed
12 along the lines of current state law and that's
13 what we will do in considering the County's
14 submission to us.

15 So with that, I think we should try and
16 frame the issues for our consideration of the
17 County's submission.

18 BOARD MEMBER LAGMAY: I'd like to say
19 something.

20 MR. SHAW: (Inaudible)

21 CHAIR KAUFMAN: Mr. Holtzman got his
22 public comments. It's the only card we've
23 received.

24 MR. SHAW: Well, I'm a member of the
25 public, too.

1 CHAIR KAUFMAN: You've had two hours to
2 submit a public comment card but if you want to
3 comment --

4 MR. SHAW: I've been standing here
5 waiting for a public comment period. You told me.
6 You told me --

7 CHAIR KAUFMAN: If you want to submit a
8 card so that you can appear and speak before the
9 Board --

10 MR. SHAW: You didn't say that before.

11 CHAIR KAUFMAN: -- please do so now and
12 we will give you an opportunity to speak.

13 MR. SHAW: I'd like you to verify that's
14 a legally required procedure.

15 CHAIR KAUFMAN: Please complete a card so
16 that you can properly appear before the Board and
17 you can speak to whatever issue you want to speak
18 to as with respect to Matter No. 5 on our agenda.

19 Did you want to while we wait?

20 BOARD MEMBER LAGMAY: Just on Mr.
21 Holtzman's statement that these meetings are
22 supported by our excellent staff and our state
23 council attends all our meetings and we depend on
24 the state council to keep us correct and
25 constitutional and within the law, and I would be

1 confident that we would get advice from that
2 office if we were venturing into any territory
3 that might be nebulous.

4 Maybe we'll take this comment first
5 before I go on to the Dean Logan thing.

6 CHAIR KAUFMAN: Okay. Mr. Shaw?

7 MR. SHAW: Yeah.

8 CHAIR KAUFMAN: Okay. Can you please
9 speak your comment.

10 MR. SHAW: You declared that you were
11 going to follow the laws of the State of
12 California. Does that include the Constitution of
13 the State of California?

14 CHAIR KAUFMAN: You can proceed with your
15 comments.

16 MR. SHAW: But I'm asking you.

17 CHAIR KAUFMAN: We've already sworn to
18 uphold the Constitution of the State of
19 California.

20 MR. SHAW: Good. All right. It's been
21 pointed out to you that the Constitution plainly
22 states that according to this law, which is
23 approved by the people, shall not be modified for
24 any other purpose than what it states, which is to
25 provide funding for election equipment. You

1 understand that.

2 CHAIR KAUFMAN: I don't believe I'm here
3 to testify, sir, so if you have some public
4 comments to complete you can continue.

5 MR. SHAW: All right. Well, let the
6 record show that you have declared that you were
7 sworn to uphold the Constitution of the State of
8 California, and in the face of that you're
9 considering an application for funding for
10 purposes for which the Proposition 41 was not
11 intended. Correct? I hear no response.

12 CHAIR KAUFMAN: Thank you, Mr. Shaw.

13 Okay, Ms. Lagmay, did you want to
14 complete your --

15 BOARD MEMBER LAGMAY: Yes. When I was
16 reading the staff report and I was trying to
17 articulate this when I was asking clarification
18 from staff, it seems like there was two different
19 kinds of math going on. So if it is staff's
20 recommendation that the Funding Award Letter be
21 awarded for 11.56 mil, but that amount includes
22 overhead and personnel and travel, which staff
23 goes on to say do not approve at this time until
24 we get additional documentation, it seems to me it
25 would be better to be straightforward and reduce

1 the Funding Award Letter for the amount for those
2 expenses for which you recommend that we approve
3 so that it's apples to apples and not this funny
4 math that is making me crazy.

5 MS. LEAN: We can absolutely do that,
6 ma'am.

7 One of the things as we were talking
8 about earlier was the authorization to spend up to
9 that amount, but absolutely we could make a
10 recommendation to you or you could choose to take
11 a vote to just base the Funding Award Letter on
12 the deliverables that have already been presented
13 to the Board for that specific, I believe the
14 amount would be for \$7,633,020, and then that
15 would be the 3:1 math for Los Angeles would be
16 \$5,724,765 if they get reimbursed based on
17 invoices they submit to that amount. So we could
18 make that recommendation to you if that's what you
19 want going forward.

20 BOARD MEMBER LAGMAY: I ask my fellow
21 Board members for their input but I just wanted to
22 put that out there for discussion.

23 CHAIR KAUFMAN: Yeah, I guess my feeling
24 on it is I think there's a few different
25 categories of -- a few buckets of costs that are

1 before us. There's the contract costs for the
2 research and development of the project that have
3 already been incurred; I kind of see that in one
4 category. And frankly, for me it seems like an
5 easy category.

6 I think SB360 was intended to provide
7 some flexibility to deal with issues that may not
8 have been thought of in 2001 when it seemed like
9 an easy fix and all of a sudden we got to a point
10 where there was no certified voting equipment.

11 So I think we want to reward innovation
12 and not stop it when it comes to reaching
13 solutions to these very serious problems that are
14 before us here in not being able to move forward
15 with voting systems that we can all have
16 confidence in, so that part of it seems pretty
17 easy for me.

18 I also think, even though it's unusual or
19 in a different place than we were, the idea of
20 paying personnel costs who are charged with
21 developing this project, and we could talk a
22 little bit more about whether these are people who
23 have other tasks within the Registrar's Office or
24 maybe they're just hired to do this task; I don't
25 know, I'm just throwing that out. The point is,

1 it's different but it's still a cost that's going
2 directly in my mind to the research and
3 development and creation of this voting system.

4 Where I start to get a little fuzzy is
5 travel costs and overhead costs, you know, where
6 does that all fit in? And in my mind just on first
7 glance, it seems to be getting into other areas
8 that I'm not sure I'm as comfortable with right
9 now, so I think that's all something we have to
10 talk about.

11 But I think there are some categories
12 with some certainty with categories that we could
13 approve today and which I agree with you should
14 match whatever the Funding Award Letter is. Or
15 maybe the Funding Award Letter includes, as I've
16 called them, sunk costs with IDEO and there was a
17 ceiling for future IDEO costs but we just focus on
18 the IDEO contract, that's another way to go.

19 BOARD MEMBER SANDOVAL: I like that
20 thought best. I have concerns, some of which are
21 similar to what my colleague Lagmay mentioned as
22 well as Stephen Kaufman.

23 It seems to me that there was a
24 recommendation made by the staff about a certain
25 amount that should be approved, but then in a

1 particular paragraph on Page 3 you make mention,
2 whoever wrote the report, that we have to decide
3 whether or not we're going to deal with these
4 overhead costs. So the decision needs to be made
5 by the Board and I think it's important to figure
6 out what guidance if any have we received to date
7 as to whether in fact these are permissible under
8 governing law. And maybe you've already looked
9 into that with state counsel or not, but are these
10 in fact permissible.

11 And then there was a sentence that you
12 include on Page 3 that says in reference to HAVA
13 funds that the Secretary of State has chosen not
14 to reimburse counties for similar types of costs,
15 so I wanted to ask why was that particular
16 sentence included; what were you trying to convey
17 with that, or direct the Board to consider on that
18 front?

19 MS. LEAN: We wanted to let you know,
20 because we are also staff to the Secretary of
21 State's Office as we are staff to the Voting
22 Modernization Board, so what we want to let you
23 know is overhead costs in general have not been
24 permissive under HAVA, reimbursements for HAVA.

25 As you understand that the Voting

1 Modernization Board has authorized that HAVA funds
2 be used for the 3:1 match, so that's where we're
3 trying to marry them together, that's one of the
4 things.

5 Under HAVA staff costs have been
6 allowable, so sorry if it was confusing in the
7 staff report; we were just trying to give you some
8 clarity to, while we have never had this come
9 forward, we are unclear whether or not the comfort
10 level is there with the Board to authorize these
11 type of costs.

12 While we understand they absolutely were
13 incurred and this was specifically, based on
14 information from Los Angeles, all these costs were
15 specifically related to this research and
16 development of the voting system, so that's why we
17 wanted to bring it forward to you. It's what
18 they've submitted to you for reimbursement, but we
19 don't have a recommendation per se on that; we
20 wanted to just provide that information to you on
21 what staff under HAVA have or have not been paid
22 for.

23 BOARD MEMBER SANDOVAL: For
24 clarification, you state that Secretary of State
25 staff has decided that HAVA funds will not be made

1 available; that's one statement. The question is
2 how did they decide that it's not legally
3 permissible?

4 MS. LEAN: Under HAVA? That was their
5 determination under HAVA.

6 BOARD MEMBER SANDOVAL: Okay. I want to
7 be clear because right now it makes it seem as if
8 it could have but there was a decision. Sometimes
9 it can be a policy decision that is still
10 consistent with the law, or maybe a decision was
11 made because it was important for the entity, in
12 this case Secretary of State, to be in compliance
13 with the law.

14 And as I understand it, there hasn't been
15 any kind of guidance provided by state counsel as
16 it relates specifically to what we can do as
17 related to direct costs for these funds, has there
18 been any direction on that front?

19 MS. LEAN: That's correct, there has not.

20 BOARD MEMBER SANDOVAL: Okay. I would
21 recommend we get counsel on that.

22 MS. LEAN: And that's one of the reasons
23 why we wanted to bring this specific costs forward
24 to the next meeting, so we have more time to
25 discuss this with their counsel and to also

1 discuss this with Los Angeles to get as much
2 documentation that we can to make ourselves feel
3 comfortable to make a recommendation to the Board.

4 BOARD MEMBER LAGMAY: At the very least
5 we should get --

6 CHAIR KAUFMAN: At the very least. And
7 just to be clear, you said that under HAVA there
8 was a decision to reimburse for personnel costs.

9 MS. LEAN: Correct.

10 CHAIR KAUFMAN: And those personnel costs
11 in the HAVA context are what kind of costs? Just
12 time spent by staff dealing with purchasing voting
13 equipment?

14 MS. LEAN: I would like to defer that to
15 our HAVA coordinator, and at the next meeting I'd
16 like to have her present and we can discuss each
17 one of the costs and different things that are
18 allowable for that.

19 BOARD MEMBER SANDOVAL: The reason why
20 it's a little bit confusing is because you use the
21 word "overhead" with HAVA, and then with regard to
22 this memo overhead includes personnel costs, so I
23 think there should be more clarity in the
24 memorandum and more detail.

25 MS. LEAN: Absolutely, we can do that in

1 the future.

2 CHAIR KAUFMAN: I think that's where
3 we're all stumbling a bit.

4 So let's see if we have kind of a
5 consensus on one set of issues. Do we have a
6 consensus to direct staff to at the next meeting
7 in July provide us with more information and legal
8 counsel with respect to, let's call it non-
9 contract costs incurred by the County, which
10 include personnel, overhead, travel costs?

11 BOARD MEMBER LAGMAY: Yes, including a
12 clearly definable opinion from the State Counsel's
13 Office.

14 CHAIR KAUFMAN: Is that agreed, clear?

15 BOARD MEMBER SANDOVAL: Agreed.

16 MS. LEAN: Yes.

17 CHAIR KAUFMAN: I don't think we need a
18 motion for that, we're just giving direction to
19 staff.

20 MS. LEAN: You don't need a motion.

21 CHAIR KAUFMAN: But I want to be sure
22 that we all understand what the categories are
23 that we're asking for direction on.

24 BOARD MEMBER LAGMAY: That's fine.

25 CHAIR KAUFMAN: So we're kind of putting

1 the County -- and Mr. Logan, if you want to
2 comment on this or correct us on anything we may
3 be confusing, but it seems to us there's the
4 contract costs with IDEO either present or future,
5 and then there's incurred costs by the County, be
6 it personnel, overhead, travel. Anything else
7 we're missing?

8 MR. LOGAN: Right, and thank you very
9 much, Mr. Chair. I do understand what you're
10 saying and I certainly support the legal
11 clarification. I would just ask a couple of things
12 to be noted in the minutes so when that legal
13 clarification is sought that we cover the full
14 breadth of the issue, because I think some of this
15 could be potentially semantics because there are
16 different governing requirements for the federal
17 money for the Help America Vote Act than there are
18 for Prop 41; for instance, the match.

19 So one way of looking at this would be
20 that some of these what you've termed as sunk
21 costs or overhead are investments the County has
22 made. We would like at a minimum for those to
23 count toward the match for the funds, so if that's
24 a way to make the distinction that you're not
25 awarding Prop 41 funds to cover those costs but

1 you're recognizing that the County has made that
2 investment of those funds, to match the request
3 that we're making of your Board. That may be
4 another way to look at it and may be more
5 transparent in terms of what it actually is.

6 And again, I would make the distinction
7 between the HAVA funds have been, as Prop 41 funds
8 have in the past been used to purchase equipment,
9 and I would argue that that equipment purchase
10 from commercial vendors, whether it's itemized or
11 not, includes the costs of development and
12 research, which is exactly what we're seeking
13 reimbursement for here. But again, we definitely
14 want a clean legal opinion on that as well.

15 I will say that I think the overall, in
16 our mind, the distinction between the
17 authorization letter and the actual disbursement
18 is also an important distinction. I think the
19 authorization amount that is before you today, the
20 cost of the contract for IDEO with the remaining
21 deliverables will probably equal the amount of
22 that authorization, so I think those are two
23 separate things.

24 So from our perspective, an authorization
25 letter and the amount of what's recommended today

1 is separate from this issue; it really has more to
2 do with the disbursement and the staff
3 recommendation is that you only disburse those
4 funds where there is clarity today, which was the
5 original deliverable.

6 So with that said, I just offer that for
7 the record so that when counsel is looking at this
8 they have the full record.

9 BOARD MEMBER LAGMAY: Mr. Logan, may I
10 ask, if we were to reduce the funding letter to
11 the amount that we're going to be paying out, is
12 that going to cripple you in any way? Is this
13 going to disadvantage you in your future planning
14 on the progress of the VSAP?

15 MR. LOGAN: I don't believe that would
16 stall the project in any manner. We would not want
17 to leave that outstanding for a long period of
18 time because the County of Los Angeles has entered
19 into a contract for the full dollar amount with
20 IDEO, so I guess our preference would be at least
21 to get a Funding Award Letter that covers the
22 remaining deliverables of that contract, just to
23 that is off the table.

24 BOARD MEMBER LAGMAY: Okay, thank you.

25 CHAIR KAUFMAN: Yeah, I think we'd like

1 to see a letter that has some relation to what's
2 been authorized, be it present or future, so I
3 don't want to start getting into mismatched
4 amounts.

5 And I think we do need to keep in mind,
6 again, we're now looking at this issue from a
7 different perspective than we have traditionally.
8 But at the end of the day, I suppose you could say
9 that the County could wait until this product is
10 completely done and then purchase it and we'd be
11 reimbursing the County for the purchase of
12 something that probably includes everything that
13 we're now taking into account of when we're doling
14 out money as you go, so I think we need to bear
15 that in mind when we look at this in its overall
16 perspective. It's different, and we're all going
17 to have to work our way through that.

18 So I think you've got direction from us.
19 We're going to hold on these other costs, call
20 them what you will, but as long as we all know
21 what we're talking about, we should be clear on
22 what we're talking about.

23 MS. LEAN: I believe we're clear and we
24 will take Mr. Logan's comments into consideration.

25 CHAIR KAUFMAN: Okay. So I guess I would

1 then like to have us consider, going back to the
2 other piece of this, issuing an award letter and
3 authorizing reimbursement to the County for those
4 costs that have been paid out under their contract
5 to IDEO. And in my perspective, also provide for
6 in the Funding Award Letter those projected
7 additional costs which are to be paid out under
8 the same contract since it seems to me they fall
9 in the same category of costs.

10 And to equate it to Funding Award Letters
11 that we've done in the past, we've authorized a
12 purchase up to a certain amount and allowed for
13 additional receipts or invoices to be submitted in
14 accordance with that, so I guess I'd like to see
15 us consider taking action along those lines if
16 either of you are so inclined or if you have
17 another way to go about it, but it seems to me
18 that issue is coupled, both the present and future
19 costs that are incurred with the vendor to develop
20 the project.

21 BOARD MEMBER LAGMAY: Well, certainly we
22 should act to reimburse Dean and his staff for the
23 money that is owed and for which staff has
24 recommended that payment should be made, so that
25 bill should be paid.

1 And as long as it's clearly understood
2 that the letter, the Funding Award Letter, at its
3 maximum does not necessarily reflect that that's
4 all the entirety of what's going to be spent but
5 it's merely a ceiling; is that correct?

6 CHAIR KAUFMAN: Yeah. So we have
7 deliverables of \$7,633,000 which have been paid
8 thus far.

9 BOARD MEMBER LAGMAY: And which need
10 payment, yeah.

11 CHAIR KAUFMAN: Yeah. And then we have
12 under future expenditures we have an amount listed
13 of \$7,148,000, which I believe reflects the amount
14 anticipated to be invoiced by IDEO during the
15 remainder of 2015 and 2016.

16 BOARD MEMBER SANDOVAL: Is that correct?

17 CHAIR KAUFMAN: Are those figures
18 correct?

19 BOARD MEMBER LAGMAY: 7.6 and 7.2.

20 CHAIR KAUFMAN: Well, yeah. Specifically
21 7,148. So I would suggest that we issue a Funding
22 Award Letter in that combined amount specifically
23 for those aspects of this project.

24 BOARD MEMBER LAGMAY: I agree.

25 CHAIR KAUFMAN: So if either one of you

1 would be inclined to make a motion along those
2 lines or --

3 MS. LEAN: We have an exact amount.

4 CHAIR KAUFMAN: We've got an exact
5 amount.

6 BOARD MEMBER SANDOVAL: I have a
7 question. What is the difference for the County if
8 we just have them come back for another
9 reimbursement as opposed to authorizing a certain
10 amount of money now in excess for future
11 expenditures?

12 CHAIR KAUFMAN: Well, they are going to
13 have to come back, but I think on this particular
14 point, rather than them having to come back to us
15 every time they pay another bill, we've said for
16 these kind of bills, as long as your documentation
17 is sufficient and staff determines that the
18 documentation meets our requirements, we'll
19 continue to pay for this category of expense,
20 rather than having to hold a meeting for them to
21 come back. That's the point.

22 And it's consistent with the way we've
23 done things in the past once we award funding to
24 purchase any particular voting system.

25 BOARD MEMBER LAGMAY: Which does not

1 preclude the possibility of reimbursing for
2 overhead, personnel, or travel in the future once
3 we've made the determination of its
4 permissibility.

5 CHAIR KAUFMAN: Correct. Correct.

6 BOARD MEMBER LAGMAY: That's fine with
7 me.

8 BOARD MEMBER SANDOVAL: And I assume
9 there are no concerns with IDEO?

10 MR. LOGAN: The general answer is no. The
11 contract is in good standing and County is well
12 protected.

13 BOARD MEMBER SANDOVAL: Okay. That's all
14 I'm asking.

15 MR. LOGAN: So if I could, just to be
16 sure. If I heard the recommendation correctly, if
17 I'm doing my math correctly, if we combine those
18 two amounts and then apply the 3:1 match would be
19 75 percent of that, then I believe the
20 authorization you're recommending would be
21 \$11,288,265.

22 CHAIR KAUFMAN: Ryan?

23 MR. MACIAS: I'm getting \$11,085,765,
24 which is a 3:1 match on the amount of \$14,781,020.

25 CHAIR KAUFMAN: I'm going to leave it to

1 others to do the match.

2 MR. LOGAN: Yeah, you should rely on your
3 staff. I think in ultimate dollar amounts we're
4 talking about a handful of dollars that will be
5 resolved by invoices and documentation in future
6 meetings.

7 CHAIR KAUFMAN: Okay.

8 MS. LEAN: Just so we're clear, that
9 doesn't preclude any of -- the total allocation
10 for Los Angeles County is \$49 million, so this is
11 just --

12 CHAIR KAUFMAN: Yeah, all we're talking
13 about is funding -- why don't I try and articulate
14 something and then one of you can --

15 BOARD MEMBER SANDOVAL: Proceed.

16 CHAIR KAUFMAN: So the motion would be
17 that the Board approves a Funding Award Letter to
18 the County of Los Angeles in the amount of --
19 Ryan, 11 million --

20 MR. MACIAS: \$85,765.

21 CHAIR KAUFMAN: Okay -- to cover
22 reimbursement of the County's current deliverables
23 and future expenditures under its contact with
24 IDEO for the research and development of the
25 County's voting systems assessment project. You

1 want to second that or move it? I guess I could
2 make a motion.

3 BOARD MEMBER LAGMAY: Oh, go ahead and
4 move it and I'll second it.

5 CHAIR KAUFMAN: I'll move that.

6 BOARD MEMBER LAGMAY: I second it.

7 CHAIR KAUFMAN: Okay. Any further
8 discussion on this?

9 MS. MONTGOMERY: Stephen Kaufman?

10 CHAIR KAUFMAN: Aye.

11 MS. MONTGOMERY: June Lagmay?

12 BOARD MEMBER LAGMAY: Aye.

13 MS. MONTGOMERY: And Gabriel Sandoval?

14 BOARD MEMBER SANDOVAL: Aye.

15 CHAIR KAUFMAN: Okay, great.

16 Congratulations, L.A. County, you can
17 start on your way.

18 BOARD MEMBER LAGMAY: You approved the
19 minutes but didn't approve the action.

20 CHAIR KAUFMAN: Actions, need to approve
21 that?

22 BOARD MEMBER LAGMAY: Yeah, just to clean
23 up.

24 CHAIR KAUFMAN: Okay. And staff, you have
25 direction on the remainder of Item 5.

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REPORTER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of November, 2014.

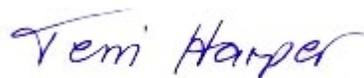
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And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of June, 2015.



Terri Harper
Certified Transcriber
AAERT No. CET**D-709