

PROPOSED

**VOTING MODERNIZATION BOND ACT OF 2002, AS
AMENDED**

FUNDING APPLICATION AND PROCEDURAL GUIDE

Voting Modernization Board

Revised February/March 2014

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I. VOTING MODERNIZATION FUND PROGRAM SUMMARY

The Voting Modernization Board (VMB) administers a program to fund the acquisition of modern voting systems under the Voting Modernization Bond Act of 2002, as amended (the Act) as set forth in California Elections Code section 19250, *et seq.*

Eligible Entities: California counties. For the purpose of this document the term "County" includes "city and county."

Eligible Projects: Purchase of modern voting equipment system hardware, including the software necessary to operate that hardware, in accordance with the provisions of the Act and the research and development of these systems in accordance with Senate Bill 360 ("Project"). Project eligibility requirements are specified in Section III. "Voting system" is defined as "any voting machine, voting device, or vote tabulating device that does not utilize prescored punch card ballots." (Elections Code section 19252(f).)

Senate Bill 360 (SB 360): In October 2013, the California Legislature passed SB 360 (Chapter 602 of the Statutes of 2013). SB 360 amended the California Elections Code to allow fund monies to be used for the purchase of systems that are either certified or conditionally approved by the Secretary of State. SB 360 also allows a county to use fund monies to contract and pay for the research and development of a new voting system that has not been certified or conditionally approved by the Secretary of State, and the manufacture of the minimum number of voting system units.

Funds Available: Initially, the proceeds from the sale of up to \$200,000,000 in State General Obligation Bonds.

Allocation Amount: Funds will be allocated by the VMB in accordance with the formula specified in Section VI.

Funding Award or Authorization of Funding Award: Pursuant to its authority under the Act, the VMB approves funding applications that it determines meet the requirements of the Act, and conditions of funding. The VMB thereafter issues a Funding Award (Appendix D-1) or an Authorization of Funding Award (Appendix D-2).

Acknowledgement of Funding Award or Acknowledgement of Authorization of Funding Award: Upon receipt of written notice of the Funding Award, County shall return an Acknowledgement of Funding Award (Appendix D-3) or an Acknowledgement of Authorization of Funding Award (Appendix D-4).

County Match Amount: One dollar for every three dollars of fund monies.

County Match Type: Match is limited to monies spent for the research, design, development, piloting, and purchase of modern voting equipment system hardware and software necessary to operate that hardware.

Application Submittal Deadline: To be eligible for the initial round of funding, counties were required to submit Applications for Funding Consideration to the VMB by 4:00 p.m. on September 3, 2002.

Number of Applications that may be submitted: Each County may submit one initial application per funding round and, if necessary, one revision of that application. Applications for expansion of an existing system or components related to a previously approved application will be accepted for review by the VMB.

Additional Funding Rounds: The VMB may establish additional funding rounds and procedures for the application process for those additional rounds.

II. INTRODUCTION

In 2002, the Voting Modernization Board announced the availability of up to \$200,000,000 in funding as specified in the Voting Modernization Bond Act of 2002. Funds have been and will continue to be appropriated to the Voting Modernization Fund and awarded by the VMB until all funds are exhausted.

III. VOTING MODERNIZATION FUND PROGRAM

Purpose

The initial purpose of the fund was to provide assistance to counties in the purchase of modern voting systems. With the passage of SB 360 in 2013, counties are now also authorized to use VMB funds to purchase systems that are either certified or conditionally approved by the Secretary of State and to contract and pay for the research and development of a new voting system that has not been certified or conditionally approved by the Secretary of State.

Eligible Entities

All California counties are eligible to apply for VMB funds.

Project Eligibility Requirements

A County is eligible to receive fund monies if it meets all of the following requirements:

1. The County has purchased new voting equipment system hardware after January 1, 1999, and has made full payment on that system, or is continuing to make payments on that system, or has contracted for and paid for the research and development of a new voting system that has not been certified or conditionally approved by the Secretary of State in accordance with SB 360.
2. The County matches fund monies at a ratio of one dollar of County monies for every three dollars of fund monies.
3. The County has not previously requested fund monies for the purchase of a new voting system. Applications for expansion of an existing system or components related to a previously approved application shall be accepted for review by the Board.
4. The fund monies shall be used to purchase modern voting systems certified or conditionally approved by the Secretary of State, pursuant to Division 19 of the California Elections Code.

- OR -

The fund monies shall be used to contract and pay for the research and development of a new voting system that has not been certified or conditionally

approved by the Secretary of State and uses only nonproprietary software and firmware with disclosed source code, except for unmodified commercial off-the-shelf software and firmware, and the manufacture of a minimum number of voting system units, pursuant to Division 19 of the California Elections Code.

5. Fund monies shall not be distributed to a county seeking fund monies for research and development under SB 360 unless a signed and executed contract between the county and the vendor and/or consultant is presented to the Board.
6. The fund monies shall not be used to purchase a voting system that utilizes pre-scored punch card ballots.
7. Any voting system purchased using bond funds that does not require a voter to directly mark on the ballot must produce, at the time the voter votes his or her ballot or at the time the polls are closed, a paper version or representation of the voted ballot or of all the ballots cast on a unit of the voting system. (The paper version shall not be provided to the voter but shall be retained by elections officials for use during the one percent manual recount or other recount or contest.)

Funds Available

The initial total amount of funds available was the proceeds from the sale of \$200,000,000 in State General Obligation Bonds. The Voting Modernization Board determined the amount of individual awards as specified in Section VI.

In the event not all available funds are allocated, the VMB may at its discretion schedule one or more subsequent funding rounds.

Matching Funds Requirement

A County must contribute one dollar for every three dollars as specified in the Act. Match is limited to monies spent for the purchase of modern voting equipment system hardware and the software to operate that hardware, or the research, design, development, piloting, and purchase of modern voting equipment system hardware and the software necessary to operate that hardware. The County shall certify to the VMB the source and amount of match funding.

IV. APPLICATION FOR FUNDING

Application for Funding Consideration

All applicants, regardless of where they were in the process of purchasing a voting system were required to complete and sign the Application for Funding Consideration certifying that the voting system would comply with the Project Eligibility Requirements as set forth in Section III of this Funding Application and Procedural Guide (see Appendix A). An authorizing resolution or other document from the County's governing body must have accompanied the Application for Funding Consideration (see Appendix B).

Project Documentation Package

At the time all required Project information is available, but no later than a date to be specified by the Board, applicants with an accepted Application for Funding Consideration on file with the VMB must submit the Project Documentation Package and the Form (Appendix C) to be eligible for funding in accordance with the Fund Allocation Process.

If a County has completed its detailed Project planning, the Application for Funding Consideration and the Project Documentation Package may be submitted concurrently.

The Project Documentation Package shall include the following:

1. Project Documentation Form signed by the person authorized in the authorizing resolution or other document from the governing body.
2. One-page Executive Summary of the Project.
3. Summary of the County's overall voting system modernization strategy and the expected impact of the Project on that strategy (maximum 5 pages).
4. Summary of the Project plan including project objectives, phases, resources, controls, and system implementation activities
5. Project schedule including key milestones and expected voting equipment system hardware acquisition and installation dates or timeline for the research and development of a proposed new voting system.
6. A detailed line item estimate of all Project costs.
7. A statement of the amount and source of match funds to be provided by the County.
8. A signed vendor agreement detailing the specific costs for the voting equipment system hardware proposed for funding assistance or a signed vendor and/or consultant agreement detailing the specific costs associated with the research and development of a proposed new voting system.
9. If a County was under court order to convert to a new voting system prior to March 1, 2004, the Project Documentation Package had to include a description of how the proposed voting system met that requirement and a contingency plan in the event the plan proposed was not implemented in time for that election.
10. A brief description of how the proposed voting system will meet the requirements of the Help America Vote Act of 2002 (HAVA) (maximum 3 pages).

The VMB will make final decisions on all applications. Applicants whose applications are denied will be notified by mail as to the reasons for the denial.

Application Submittal Deadlines

Initially, the Application for Funding Consideration and the Authorizing Resolution were to be received by the VMB not later than 4:00 p.m. on September 3, 2002.

Currently, the Project Documentation Package and all required attachments must be received by 4:00 p.m. by a date to be specified by the Board.

Both the Application for Funding Consideration and the Project Documentation Package must be delivered to the following location.

Voting Modernization Board
c/o Secretary of State, Elections Division
1500 11th Street, 5th Floor
Sacramento, CA 95814
katherine.montgomery@sos.ca.gov

Number of Copies to Submit

The County shall submit to the VMB one original hard copy and an electronic copy of the Application for Funding Consideration and the Project Documentation Package.

V. AMENDED APPLICATION SUBMITTAL PROCESS

A County whose application is rejected shall be allowed a single opportunity to submit an amended version of that application to the Board.

An amended application must be received by the Board within 7 business days from the date of the Board's written notification of the initial application's rejection. Amended applications shall include all documents required of initial applications and must resolve all the reasons for rejection stated in the Board's notification.

VI. FUND ALLOCATION PROCESS

The VMB determined the amount to be allocated to each County that had submitted an acceptable Application for Funding Consideration and set aside that amount either until the County submitted a complete and acceptable Project Documentation Package, at which time the VMB may establish a payment schedule for the County, or until the funding allocation period expired, pursuant to this Section, Sections VII, or VIII.

The VMB based the projected maximum allocation of funds to each participating County on an equal weighting of the four formulas discussed by the VMB at its July 17, 2002 meeting, as corrected. These formulas are: (1) The number of persons eligible to vote in the County, as indicated in the February 19, 2002 (15-Day) Report of Registration; (2) The number of persons registered to vote in that County as of the February 19, 2002 (15-Day) Report of Registration; (3) The number of polling places in that County based on the number of precincts in the Statement of Vote for the March 5, 2002 election,

minus the number of mail ballot precincts reported by the County to the Secretary of State for that election; and, (4) Voter turnout at the last 4 elections, as the calculated average turnout from the March 2002, the November 2000, the March 2000, and the November 1998 elections.

The calculation above established a maximum allocation reserved for each County and did not exceed the amount of the County's estimate as of July 17, 2002 to upgrade their voting equipment, as provided to the Secretary of State.

Payments of funds were and shall be distributed to counties based on actual invoices.

The State portion of the cost of voting equipment could not and shall not exceed \$3,000 per Direct Recording Equipment and/or Touch Screen voting machine.

All applications for funds shall include a plan describing how the County will make its voting equipment accessible to persons with disabilities.

If a County fails to submit the Project Documentation Package by the date and time specified under Application Submittal Deadlines, the VMB may at its discretion choose to cancel the allocation of funds set aside for that County and allocate those funds to eligible counties in any future funding rounds.

VII. CONDITIONS OF FUNDING

Funding Award or Authorization of Funding Award

Pursuant to its authority under the Act, the VMB approves funding applications that it determines meet the requirements of the Act and conditions of funding. The VMB thereafter issues a Funding Award (Appendix D-1) or Authorization of Funding Award (Appendix D-2).

Acknowledgement of Funding Award or Acknowledgement of Authorization of Funding Award

Upon receipt of written notice of the Funding Award or Authorization of Funding Award, County shall return an Acknowledgement of Funding Award (Appendix D-3) or an Acknowledgement of Authorization of Funding Award (Appendix D-4).

VMB Policy Decisions

VMB Policy Decisions are communicated through County Clerks, Registrar of Voters (CCROV) Memoranda.

Loss of Funding

The following may result in a loss of funding allocation:

1. County failed to submit an Application for Funding Consideration by September 3, 2002. Failure to submit an Application for Funding Consideration shall not prevent a County from participating in subsequent funding application cycles.
2. If a County fails to submit the Project Documentation Package by the date specified by the VMB.
3. County elects not to use its allocation, only uses a portion of its allocation, or withdraws from the funding program.
4. County project is not consistent with the requirements of Proposition 41 and/or the requirements set forth in SB 360.
5. In the event that the County fails to complete the funded Project by the Project Completion Date set forth in the Funding Award (Appendix D-1), all funds not used to pay for the Project shall be returned to the VMB. Additionally, any monies allocated to the County but not yet paid shall be cancelled and reallocated for future funding rounds.

A County that is unable to finish the Project by the Project Completion Date, and is unable to do so because of circumstances beyond its control, may apply to the VMB for an extension of the Project Completion Date. The VMB may, upon a showing of good cause, extend the Project Completion Date.

6. In the event that the County fails to complete the Project by the Research and Development Project Completion Date set forth in the Authorization of Funding Award (Appendix D-2), and funds have been dispersed, all funds not used to pay for the project shall be returned to the VMB. If funds have not yet been dispersed, then the funds allocated in Authorization of Funding Award shall be reduced to zero.

A County that is unable to finish the Project by the Project Completion Date, and is unable to do so because of circumstances beyond its control, may apply to the VMB for an extension of the Project Completion Date. The VMB may, upon a showing of good cause, extend the Project Completion Date.

VIII. PROJECT REPORTING

Periodic Reports

Periodic reports may be requested by the VMB as needed for Research and Development Projects.

Changes to Approved Project

County shall notify VMB of proposed changes in its Project. The VMB shall approve proposed changes. The notification must include an explanation of the reasons for the

changes and a statement of the impact of such changes on the use of the voting systems in future elections or the research and development of a proposed new voting system. Any change which does not meet the requirements of this Funding Application and Procedural Guide may subject the County, at the discretion of the VMB, to loss of all or a portion of allocated funds.

Project Completion

County shall submit a Project Completion Report to the VMB. The report must certify completion of the Project and that all money allocated by the VMB was expended on the Project. It must provide a financial summary showing final Project costs and sources of funding.

IX. PAYMENTS

Payment Process

County must submit to the VMB copies (in triplicate) of invoices for voting systems or research and development services purchased pursuant to the Project and received by the County (e.g., delivered goods) along with a fully executed Payment Request Form (Appendix E-1) or Research and Development Payment Request Form (Appendix E-2). Invoices must include the Funding Award Number or Authorization of Funding Award Number, as applicable.

Before a county submits a Research and Development Payment Request Form, the county shall notify the VMB at least 60 days in advance of the request. The purpose of this advance notice is to facilitate the sale of the VMB fund bonds.

County will be paid in accordance with its approved Project Documentation, the required County match, VMB policies and procedures, and the allocated funding up to the award amount as shown in the Funding Award (Appendix D-1) or the Authorization of Funding Award (Appendix D-2). Invoices will be processed as received.

Completed Payment Request Forms and invoices should be submitted to:

Voting Modernization Board
c/o Secretary of State, Elections Division
1500 11th Street, 5th Floor
Sacramento, CA 95814

Receiving Payments

Applicants should allow 45 to 60 days to receive payment after submitting a completed Payment Request Form.

Required Use of Funds

For Paid Invoices (Financed): In the event that the non County matched portion of the purchased voting system is financed, all funds received by the County from the VMB shall be paid within 60 days to the voting system vendor, the contractor and/or vendor retained to perform the research and development of a proposed new voting system, or to the third party that is financing the County's obligation, so as to immediately satisfy all or a portion of that debt obligation.

For Invoices Not Fully Paid (Under Terms, Net 45): In the event that the non County matched portion of the purchased voting system has not been paid (e.g., pursuant to terms, net to be paid within 45 days), all funds received by the County from the VMB shall be paid within 60 days to the voting system vendor, or the contractor and/or vendor retained to perform the research and development of a proposed new voting system. County shall thereafter provide documentation to the VMB of payment to said vendor and/or contractor.

For Paid Invoices (Paid by County): In the event that the County has paid for the voting system from its own funds, all funds received by the County from the VMB shall be transferred within 60 days to the County's general fund or to such other County fund as used to pay for the purchased voting system, or used to pay for the research and development of a proposed new voting system.

X. RECORD KEEPING AND AUDIT

Record Keeping

County shall maintain records in a manner that:

- Accurately reflects fiscal transactions with necessary controls and safeguards
- Provides complete audit trails, based whenever possible on original documents (purchase orders, receipts, progress payments, invoices, time cards, cancelled warrants, warrant numbers, etc.)
- Provides accounting data so the total costs of the Project can be readily determined throughout the Project period

The VMB requires that a County retain all Project related records for five years after the VMB has accepted the Final Project Report or Project Termination and for at least one year following any audit or final disposition of any disputed audit findings.

Audit

All Projects may be subject to standard audit reviews for three years following the completion of the project. The audit shall include all books, papers, accounts, documents, or other records of the County as they relate to the Project for which funds were allocated.

Upon written notice of an audit, the County shall make the Project records, including the source documents and cancelled warrants, available to the VMB. County shall also provide an employee having knowledge of the Project to assist the VMB's auditor. County shall provide a copy of any document, paper, or electronic record requested by the VMB.

Inspection

County shall permit initial and then periodic site visits by VMB and its representatives to determine if work is in accordance with the approved Application, including a final inspection upon Project completion.