

Project Documentation Plan Submittal Deadline

Background

At the December 17, 2002, meeting of the Voting Modernization Board, the VMB adopted a January 1, 2005, deadline for counties to receive approval from the VMB for Project Documentation Packages. Under this adoption, counties that do not receive approval by the deadline forfeit their Approved Allocation.

At the October 15, 2003, meeting of the VMB, the Board requested staff to prepare a report on the status of all counties' voting modernization progress. All 58 counties were surveyed on their modernization status.

Status of Counties' Voting Modernization

- 20 counties have submitted Project Documentation Plans and have been issued funding awards equaling approximately \$84.1 million.
- Of these 20 counties, 7 counties are modernizing their voting systems in multiple phases. These 7 counties plan to submit their Phase 2 Project Documentation Plans some time between late 2004 and early 2005. The remaining phase allocations equal approximately \$54.2 million.
- 38 counties have yet to submit Project Documentation Plans to modernize their voting equipment. This equates to approximately \$56.6 million funding awards to be issued.
- Of these 38 counties, 8 counties estimate that they will submit their plans during 2004 (equaling approximately \$14.3 million in funding allocations), 16 counties in 2005 (equaling approximately \$16.9 million), and 14 counties do not have a projection on submittal dates (equaling approximately \$25.4 million).
- Accordingly, based on information available to date, a minimum of 30 counties, who are collectively eligible for \$42.3 million, do not anticipate meeting the January 1, 2005 deadline for submittal of the required Project Documentation Plan.

Staff Report

A majority of the counties are still in the beginning stages of determining whether to convert to a new voting system, and, if so, which voting system would best suit their county's needs. Some counties have been waiting to see how other counties' progress in their modernization before they begin the huge task of modernizing their own voting equipment. Other variables potentially contributing to slow progress to modernize California's voting systems include: a limited number of

vendors selling certified equipment in California, and the recent requirement of an Accessible Voter Verified Paper Audit Trail (AVVPAT) for Direct Recording Electronic (DRE) equipment. The California standards for the AVVPAT have not yet been adopted, thereby creating some uncertainty in the planning process for counties since vendors do not know what will be required.

With a substantial number of counties still remaining to submit Project Documentation Plans for all potential phases to fully modernize their voting equipment; the VMB may want to consider extending the January 1, 2005, deadline for counties to submit their plans.

However, if the January 1, 2005 deadline is maintained, it could allow the VMB to conduct additional funding rounds for the money not used by the deadline. The VMB could reallocate these funds to counties who have converted to new systems by the deadline and did not receive enough funding to pay for their new system. In addition, the reallocated funds could be used to offset the costs to counties that are required to upgrade to the new AVVPAT requirement.

As indicated, approximately 30 counties do not plan to submit Project Documentation Plans before 2005. In addition, several counties are “phasing in” their conversion, and will not apply for the final phases of their conversion until after January 1, 2005. Included in this category is the final phase for the largest jurisdiction in California: Los Angeles County (approximately \$48.9 million remaining allocation amount).

All 58 counties were surveyed and asked whether they believed the January 1, 2005 deadline should be maintained (see attached survey results). Of the 41 counties who responded to the survey, 39 counties indicated that the January 1, 2005 deadline should be extended to January 1, 2006.

Counties commented that they were extremely reluctant to begin modernizing their voting equipment given the uncertainty of the standards to be applied to new voting equipment technologies (such as the new requirement of the AVVPAT), the potential de-certification of DRE machines in California and the small number of certified vendors who sell accessible voting equipment in California.

On April 30, 2004, the Secretary of State issued orders decertifying the use of DRE voting systems in California. The Secretary of State banned and decertified the use of the Diebold AccuVote-TSx hardware and firmware voting equipment in California. This equipment was purchased and used by four counties during the March 2, 2004 Primary Election, which includes Kern, San Diego, San Joaquin, and Solano. The Secretary of State also decertified all DRE systems in California but allowed the counties who used DRE's in the March 2, 2004 Primary Election (Alameda, Merced, Napa, Orange, Plumas, Riverside, San Bernardino, Santa Clara, Shasta, Tehama and Los Angeles for early voting only) to use these systems in the November 2, 2004 General Election, if they either installed an Accessible Voter Verified Paper Trail (AVVPAT) before the November Election, or if they meet 23 security measures identified in the order.

The order decertifying all DRE systems in California also requires that all “new” DRE voting systems purchased in California must include an Accessible Voter Verified Paper Audit Trail

(AVVPAT). In essence, the Secretary of State has placed a moratorium on the sale of DRE's in California.

The Help America Vote Act of 2002 (HAVA) has a January 1, 2006, deadline for voting system equipment to meet specified accessibility standards. Under HAVA, a county should have one accessible voting machine in each polling site or fully convert to an accessible touch screen option. There have been indications that some vendors may also be developing an accessible optical scan option to fulfill the accessibility requirements of HAVA.

Options

- Option 1: Extend the January 1, 2005, deadline to January 1, 2006, to enable counties to have more time to submit Project Documentation Plans before reversion of the funds.
- Option 2: Maintain the current January 1, 2005, deadline be for counties to submit a Project Documentation Plan.

Recommendation

Staff recommends Option 1. This recommendation is based upon the survey results from the counties and the current order from the Secretary of State on the moratorium on purchasing currently available Direct Recording Electronic (DRE) touch screen equipment in California.

Suggested Motions

- Adopt January 1, 2006, as the deadline for counties to submit Project Documentation Plans to receive their Voting Modernization Board allocated funding awards.
- Adopt a policy to allow a county to request an extension to this deadline for submittal of additional phase Project Documentation Packages, if they can show good cause.
- Adopt a motion to signify that any additional funding rounds will take place after January 1, 2006.
- Adopt a motion that if a county does not meet the January 1, 2006, deadline to submit its Project Documentation Plan that the county's approved allocation amount will be reverted to the Proposition 41 Voting Modernization Fund.