

Orange County

VVPAT Retrofit - Change to Approved Project Documentation Plan Staff Report

Summary

Orange County	Amounts
Original VMB Award	
VMB Approved Allocation Amount Received by Orange County	\$16,782,377.26
Documented County 3:1 Matching Amount	\$5,594,125.75
Original Total System Cost	\$26,179,534.67
Voter Verified Paper Audit Trail (VVPAT) Costs	
County Estimate for VVPAT Cost	\$12,121,875.00
Proposed County Refund Amount of Original VMB Award	\$12,121,875.00
New Estimated Total System Cost	\$40,333,366.83
VVPAT Retrofit Request For Funding	
New Request for VVPAT Retrofit Funding Amount	\$12,121,875.00

Vendor:

Maximus/Hart InterCivic

New Hardware:

VVPAT devices for Hart eSlate 3000 (Touch Screen System) – 9,000 Units

Background:

State law requires that Voting Modernization Funds received from the VMB be used for the purpose of placing at least one accessible voting unit in each polling place (Elections Code § 19227(b).) State law effective January 1, 2005, requires that all DRE voting systems receive federal qualification and include an accessible Voter Verified Paper Audit Trail (VVPAT) by January 1, 2006, in order for the equipment to be certified and used in California, and states that to the “extent that they are available for expenditure,” federal funds or moneys from the Voting Modernization Fund shall be used to comply with the VVPAT requirements (Elections Code §§ 19250, 19251).

Orange County
VVPAT Retrofit – Change To Approved Project Documentation Plan Staff Report

The Help America Vote Act of 2002 (HAVA) specifies standards that voting systems must meet in order to comply with federal mandates. However, HAVA does not require that DRE voting systems come equipped with a VVPAT. The Secretary of State has received guidance from the Election Assistance Commission (EAC) that HAVA funds may not be used to retrofit an otherwise HAVA-compliant voting system with a VVPAT. A voting system that is equipped with a VVPAT at the time of its purchase, however, is an eligible HAVA expense because the VVPAT meets the federal voting system standard for a manual audit capacity.

HAVA Section 251(c)(1) allows a State to “use a requirements payment as reimbursement for costs incurred in obtaining voting equipment which meets the requirements of Section 301 if the State obtains the equipment after the regularly scheduled general election for Federal office held in November 2000.”

The Secretary of State’s Office received an opinion from the EAC that permits a county to remit funds it received through the Voting Modernization Bond Act and to receive a “retroactive payment,” pursuant to Section 251(c)(1), to pay the costs of purchasing a HAVA Section 301-compliant voting system from HAVA resources received by the State.

Staff Report:

At the July 16, 2003, meeting of the Voting Modernization Board, the Board approved Orange County’s Project Documentation Plan and awarded funding for the reimbursement of the county’s purchase of 9,000 Hart eSlate 3000 touch screen units, 1,750 Judge’s controller units and 3 Hart Ballot Now optical scan ballot units. The county used this equipment at the March 2, 2004 Presidential Primary Election.

Orange County began its voting modernization plans before the state requirements for a VVPAT were enacted; however, due to the subsequent state requirement for all DREs to possess a VVPAT, the county retrofitted the 9,000 e-slate touch screens to include the required printer. These machines were used for the first time countywide during the June 6, 2006 Primary Election.

Orange County is requesting that the Board allow the county to return funds received from the VMB in order to qualify for retroactive reimbursement from HAVA for their purchase of a HAVA Section 301 compliant voting system and concurrently request funding from the VMB to fund their VVPAT retrofit costs.

Orange County would be required to refund the retrofit cost of \$12,121,875.00 to the Voting Modernization Fund (VMF) from the county’s general fund before the county would be eligible for any VMB funding for the VVPAT retrofit or any retroactive reimbursement from HAVA Section 301. Once the refund for the retrofit cost has been received and deposited back into the VMF and confirmation of that deposit has been received from the State Controller’s Office, the VMB would notify Orange County and the Secretary of State’s HAVA coordinator that the deposit has been completed.

Orange County

VVPAT Retrofit – Change To Approved Project Documentation Plan Staff Report

The VMB could then amend the original Funding Award letter issued to Orange County to explicitly state that the VMB will allocate the \$12,121,875.00 in funding returned by the county to the VMF for the purpose of reimbursement of the VVPAT retrofit costs.

Orange County would then be required to submit to the VMB an acknowledgement letter certifying that the new funds will be used in accordance with the Voting Modernization Bond Act of 2002. Orange County could concurrently submit a Payment Request Form with required documentation to receive reimbursement for the VVPAT retrofit costs. Please note that the time frame for receipt of payment after submitting a complete Payment Request Form is estimated to be between 45 and 60 days to receive payment. The VMB staff will make every effort to expedite the payment process, but the county **will not** receive payment *within 48 hours* of returning the funds to the VMF, as is proposed in the county's amended project documentation plan.

Staff Recommendation:

It is our recommendation that Orange County's change to their approved Project Documentation Plan be approved, contingent upon receipt of the funds as outlined above.

Once confirmation of the deposited funds is obtained, the VMB staff will notify the Chair of the Board and an amendment to the original July 16, 2003 Funding Award letter may be issued in the amount of \$12,121,875.00 to fund the VVPAT retrofit costs only.