

**COUNTY OF SACRAMENTO
CALIFORNIA**

For the Agenda of: May 28, 2003
2:30 p.m.

To: Board of Supervisors

From: Department of Voter Registration and Elections/Revenue Recovery and
Department of General Services

Subject: Cancellation of RFP 5900, "Voting System"

Contact: Al Fawcett, Administrative Services Officer III, Extension 56465

Overview:

Your Board directed Voter Registration and Elections to seek proposals to replace Sacramento's PollStar voting system and to report back after evaluations are completed with a recommendation for a new voting system. Voter Registration and Elections evaluated the proposals of five qualified vendors in response to RFP 5900, who provided written responses to a comprehensive series of questions about their proposal, their voting system and their company and demonstrated their proposed system to the evaluation panel and, separately, to the general public.

After RFP 5900 was issued, the Secretary of State convened an ad hoc task force to recommend to him when a paper representation of the ballot is produced. The work of the Task Force has not been completed at the time this report was prepared. Simultaneously, he postponed the March and April hearings of the Voting Systems and Procedures Panel, at which some vendors had anticipated certification of upgrades to their proposed voting systems.

The evaluation panel cannot recommend a voting system until the issue of the paper representation of the ballot is determined and upgraded voting systems are certified by the Secretary of State.

Recommendations:

That your Board:

1. Direct the County Purchasing Agent to cancel RFP 5900; and,
2. Direct the Division of Contract and Purchasing Services to issue a new Request for Proposal when the Voting Systems and Procedures Panel and the Secretary of State issue their respective decisions;
3. Direct the Registrar of Voters/Director of Revenue Recovery to convert PollStar to Mark Sense, a certified optical scan voting system offered by DFM Associates and to use the same until a new voting system is selected and approved by your Board.

Measures/evaluation

By delaying the acquisition of a new voting system to replace PollStar, Sacramento County can acquire a voting system that will meet the directives of the Secretary of State and provide optimum value to the County.

Fiscal Impact:

Unknown costs to Contract and Purchasing Services to prepare and distribute another Request for Proposal. Approximately \$80,000 to Voter Registration and Elections to convert PollStar to Mark Sense, primarily by modifying existing card readers. No additional funds are requested.

BACKGROUND

Over the past three years, your Board has been advised of the need to replace the PollStar voting system and of the availability of state and federal funds to help offset the cost. On December 3, 2002 (#42), you directed the Registrar of Voters to:

1. Seek new proposals for both a new voting system for polling places and absentee voting for Sacramento County, to include all types of voting systems (including, but not limited to, touch screen systems) which are certified for use in California, that meets all of the conditions required by:
 - a. Federal law voting system requirements per the House of Representatives Bill HR 3295 (now known as the Help America Vote Act, or HAVA); and/or,
 - b. State law and meets the conditions necessary to be eligible for funds allocated under State Proposition 41;
2. Include in the RFP that the bidders that offer touch screen technology provide a bid for systems with and without a voter-verified paper ballot.

DISCUSSION

Request for Proposal (RFP) 5900

The Division of Contract and Purchasing Services issued RFP 5900, asking potential vendors to propose their solution for a new voting system for Sacramento County that meet your directives of December 2nd. Contract and Purchasing Services forwarded five valid proposals to an evaluation team in Voter Registration and Elections. This team evaluated the written proposals and a demonstration of each of the five systems. Vendors also demonstrated their system to the general public.

Unassisted accessibility for the visually disabled at the polling place

The Governor signed Assembly Bill 2525 into law last year (Chapter 950, Statutes of 2002) which significantly affects the administration of elections. In AB 2525, the Legislature finds and declares:

- That voting technology and systems that allow the voter to access and select information solely through a visual means are a barrier to access by individuals who are blind or visually impaired, thereby discouraging them from exercising the right to vote, the most fundamental right of citizenship in a free and democratic society; and
- That software and hardware adaptations have been created so that voters can interact with voting technology and systems through both visual and nonvisual means allowing blind and visually impaired people to cast a secret ballot and independently verify their vote.

“Nonvisual” is defined as synthesized speech, Braille and other output methods not requiring sight.

AB 2525 requires that each polling place have at least one voting unit that shall provide access to individuals who are blind or visually impaired. A local agency is not required to comply with

this requirement unless sufficient funds are available to implement this provision. Funds from Proposition 41, from federal funds made available to purchase new voting systems or any other source (other than the state General Fund) shall be used for that purpose. Thus, if Sacramento County accepts any funds to purchase a new voting system, we must comply with this provision of AB 2525. Compliance with AB 2525 is best achieved by deploying to every polling place an electronic voting device with an incorporated audio ballot with instructions.

Paper Representation of the Ballot

In part, HAVA requires, by January 2006, a voting system that:

1. Permits a voter to verify, correct and vote in a private and independent manner before the ballot is cast;
2. Notifies a voter of an overvote and provides an opportunity to make corrections;
3. Produces a permanent paper record with a manual audit capacity that is available as an official record for recounts;
4. Provides the voter with an opportunity to change, correct his/her ballot before it is cast;
5. Is accessible to persons with disabilities (i.e., with at least one device per polling place) that provides the same opportunity for access and participation, including privacy and independence, as for other voters.

Proposition 41 requires that any system in which the voter does not directly mark the ballot must produce, either at the time of voting or at the time the polls are closed, a paper version or representation of the voted ballot or all ballots cast on a voting unit. The paper representation shall not be provided to voter, but shall be retained by voting official.

The Secretary of State advised vendors and elections officials that he would decide when the paper representation of the ballot should be produced. In February, he appointed the Ad Hoc Touch Screen Task Force to report their findings and recommendations on this topic to the Secretary of State. He anticipates a report from the Ad Hoc Task Force in May 2003.

Certification of Voting Systems

Before a voting system can be used in California, it must pass two levels of certification: a federal certification by an Independent Testing Authority and a state certification by the Secretary of State. Because of the rapid changes in electronic voting technology and because nine California counties (Sacramento included) must replace their punch card voting system before the 2004 Presidential Primary Election, the Secretary of State had scheduled monthly certification hearings.

After appointing the Ad Hoc Task Force, he canceled the certification hearings scheduled for March (scheduled for March 12, 2003) and April 2003, pending a report from the Task Force. Some of the vendors who submitted bids in response to RFP 5900 were scheduled on the March 12th agenda of the Voting Systems and Procedures Panel for state certification. The next certification hearing was held on Tuesday, May 13, 2003.

One of the requirements of RFP 5900 is that a voting system had to be certified in California by the date of their product demonstration to the evaluation team. The vendors who were scheduled on the March 12th agenda of the Voting Systems and Procedures Panel bid a system that is currently certified, thus meeting the requirement of RFP 5900. However, they had anticipated that upgrades to these certified systems would be approved by the Secretary of State on March

12th and would be available by March 24th, when product demonstrations began. The evaluation team evaluated some systems that will very likely be replaced by an upgraded version when the Voting Systems and Procedures Panel meets again.

Evaluation Team Findings

The RFP evaluation team feels it cannot recommend a voting system to me to replace PollStar until the Secretary of State decides on the issue of the paper ballot representation. The team also believes that the issue of pending certifications must be decided before they can recommend a voting system.

The evaluation team earlier agreed (and I advised your Board) that July 1, 2003 is the date a decision must be made. If this date is not met, Voter Registration and Elections cannot acquire a new voting system in time for the March 2004 Presidential Primary Election. After July 1st, Voter Registration and Elections must begin the process of modifying PollStar to a certified voting system.

The team reached the followings and recommendations:

1. The systems bid in response to RFP 5900 do not fully meet the needs of Sacramento County;
2. Some of the vendors have features and systems that are not yet certified. Once certified, those improvements would better serve Sacramento County;
3. The Secretary of State's directive on a voter-verified paper representation of the ballot could significantly alter the requirements of a new voting system;
4. A modified PollStar would meet the federal judicial ruling to replace pre-scored punch card voting systems by March 2004;
5. A modified PollStar would not jeopardize Sacramento's allocation under Proposition 41 or under most provisions of HAVA; it could possibly jeopardize funds available under HAVA Title I (punch card buyout);
6. RFP 5900 should be canceled and reissued after the Secretary of State has decided on the issue of the voter-verified paper representation of the ballot and has convened the Voting Systems and Procedures Panel to consider certifications to new and upgraded systems.

Conversion of PollStar to Optical Scan

PollStar can be converted to an optical scan voting system through modification to existing ballot counting equipment. DFM Associates has provided Voter Registration and Elections with election management software since 1984 and is currently under contract to Sacramento County. DFM Associates can convert the software and ballot counting hardware to a certified optical scan voting system. This optical scan system is a modified version of PollStar and is certified by the Secretary of State. This would be an interim solution that would comply with the Federal judicial order to replace pre-scored punch card voting systems by March 2004. It does not, however, qualify for HAVA funds or meet the HAVA requirements.

FISCAL IMPACT

Proposition 41

Sacramento County submitted a preliminary application to qualify for funds under Proposition 41. Sacramento County will receive approximately \$7.8 million dollars after a qualifying voting system is selected and a final application is submitted and approved. Under the proposed

schedule, these funds will likely be released to Sacramento County in late FY 04-05 or early FY 05-06.

HAVA

The State of California will receive funds for specific purposes to implement the various provisions of HAVA. Title I, Section 102 provides up to \$4,000 per qualifying precinct to states to replace punch card and lever voting machines with other voting systems that meet the HAVA requirements. A state that receives funds under this provision must certify that all of the punch card voting systems in the qualifying precincts within the state have been replaced in time for the November 2004 General Election. A state may apply for a waiver if it certifies by January 1, 2004, that it will not meet the deadline previously stated for good cause and that the state will ensure that all punch card voting systems within the state will be replaced in time for the first election for Federal office held after January 1, 2006.

By delaying the acquisition of a touch screen voting system, Sacramento County may compel the Secretary of State to request a waiver to the Title I, Section 206 funds. However, with your concurrence, Voter Registration and Elections does not intend to apply for Proposition 41 or HAVA funds until Sacramento County decides to purchase a qualified voting system.

Conversion of PollStar

To meet the federal judicial order to replace pre-scored punch card voting systems before the March 2004 Presidential Primary Election, Voter Registration and Elections proposes to convert PollStar to Mark Sense, a voting system offered by DFM Associates. Voter Registration and Elections currently has a contract with DFM Associates to provide election management software and services. Most of the equipment used with the PollStar system can be used with Mark Sense, with a modification of the card readers. The estimated conversion cost is approximately \$80,000. Contract and Purchasing Services has advised this is a modification to an existing system and no new RFP or contract is required.

Voter Registration and Elections was allocated funds to implement and support a new voting system. Some of these funds will be returned, although approximately \$80,000 (currently in our proposed budget) will be needed for conversion costs.

Respectfully submitted,

ERNEST R. HAWKINS, Director
Voter Registration and Elections/Revenue Recovery

APPROVED:

TERRY SCHUTTEN
County Executive

By: _____
GEOFFREY B. DAVEY
Chief Financial Officer

CONCUR:

JOHN NEWTON, Director
Department of General Services

cc: Martha J. Hoover, Sr. Administrative Analyst, County Executive's Office (09-7650--Tube Station C-3)

Brian Chin, Deputy Director of General Services, Division of Contracts and Purchasing
Services (55-202A)