BRUCE MCPHERSON | SECRETARY OF STATE | STATE OF CALIFORNIA

OFFICE OF VOTING SYSTEMS TECHNOLOGY ASSESSMENT
1500 11th Street | Sacramento, CA, 95814 | **tel** 916.653.7244 | www.ss.ca.gov

February 17, 2006

Dave Byrd
Vice President, Operations and Finance
Diebold Election Systems, Inc.
1253 Allen Station Parkway
Allen, Texas 75002

Dear Mr. Byrd:

As you are aware, on December 20, 2005, this office directed you to transmit the AccuBasic code resident on the memory card in the Diebold optical scan and touchscreen voting systems to the Federal Independent Testing Authority ("ITA") for review. The voting systems submitted to our office for certification had been through the federal testing process and had received a qualifying NASED number; however, the AccuBasic source code on the memory card in both voting systems had not been reviewed by federal testers.

We believe that the failure by the federal ITA to review the source code was an oversight that had to be corrected. Accordingly, we directed you to transmit the source code back to the ITA with direction from this office regarding how that federal review should be conducted. In recognition of the fact that this office is not the oversight body for federal ITAs, and in response to concerns about resource constraints at the ITAs, at the same time we submitted the AccuBasic code to the ITA, we also submitted it to qualified security experts at the state's disposal for independent review. To date, we have not received a report from the federal ITA, nor have we received any information regarding the status of its review from the federal ITA.

Earlier this week we did receive a comprehensive report from our state reviewers that thoroughly examines all the technical aspects of the memory card source code use, and offers expert advice about potential vulnerabilities and mitigation measures to address potential vulnerabilities. Enclosed is a copy of that report for your review. It is of particular significance to this office that the state's expert reviewers have clearly stated that the vulnerabilities that they believe exist are easily managed by use and security procedures, many of which are already established practice and in use in California.

Based upon our review of this report and its recommendations, the Secretary of State's Office will issue a certification with conditions for use of the equipment specified in your application dated September 16, 2005 for use in the 2006 elections. The voting systems being certified are to be utilized under the conditions specified in this certification, which are in addition to other security and use procedures for these voting systems that accompanied your application.

As you can see from the report, the state reviewers have indicated all potential vulnerabilities can be easily fixed in the long term. Accordingly, this office believes that failure to pursue these long-term fixes to further increase the security, integrity and reliability of the election process would be a disservice to the voters of California. Therefore, we are requiring that you:

- Fix the programming bugs identified in the report, specifically those in the source code of the interpreters, as explained in the report.
- Revise the source code of the interpreters to introduce systematic defensive programming practices and high assurance development methods.
- Protect the AccuBasic code from tampering and modification so as to obviate the need for the state imposed safety procedures.
- Address long term issues to remove the interpreters and interpreted code and any other program code from the memory cards.

Please advise this office in writing by close of business Tuesday, February 21, 2006, as to the feasibility, including the time requirements, for making these changes.

Sincerely,

G. Lapsley

Bruce McDannold
Interim Director
Office of Voting Systems Technology Assessment

cc: County Clerks/ROVs
        NASS
        NASED
        ITA