

From: Orth, Brandi [mailto:BOOrth@co.fresno.ca.us]
Sent: Thursday, January 31, 2013 7:46 AM
To: Brad Friedman
Subject: RE: Prop. 37 recount

Mr. Friedman:

As I previously said to you, my primary concern is accuracy of the voting system. Please remember that the recount proponents gave us vague information, which made it difficult for us to respond to them.

We have given considerable review to your many detailed questions. I am confident that our decisions are consistent with the law, and not only provide assurance to our electorate that any recount in Fresno County is handled lawfully, but that it would be conducted with the best interest of the voters in mind.

Brandi

From: Brad Friedman
Sent: Tuesday, January 29, 2013 5:30 PM
To: Orth, Brandi
Subject: RE: Prop. 37 recount

Thanks again, Brandi, for the detailed response.

I must say, however, I'm still confused. Let's set aside the 8-hour versus 7-hour conflict in the numbers for the moment (though I'm still not sure why you'd quote him for a 7-hour day, then send me an estimate which included an 8-hour day. But that seems a minor issue in comparison to others.)

The bigger issue is the use of Election Office employees as counting Board Members as that seriously runs up the cost per day. As you note in your response below, "The Code of Regulations states that members of the recount board be registered voters in the County." That is true. And, since you're familiar with those regulations, I'd think you'd also be familiar with the very next sentence in the same section, 20818(a), of those same regulations which pretty clearly state that a Board Member who is an employee of the election official "shall not be compensated as a special recount board member pursuant to Elections Code section 15625 for any day for which the jurisdiction otherwise compensates the employee unless the employee uses one of his or her vacation days."

Moreover, Elections Code section 15625 clearly states "Each member of a recount board shall receive the same compensation per day as is paid in the jurisdiction within which the recount is being conducted to members of precinct boards, other than inspectors".

So if you were going to use office personnel, it seems the Prop 37 folks should not have been required to pay your staff their salary and benefits for that work, or if the workers were to be on "vacation", then they would be paid the same \$150/day that precinct workers receive.

Going even further, the CACEO Recount Billable Items document you sent me, as referenced for how you came up with your estimate, similarly states plainly that Recount Board members are to be "Paid same as precinct workers."

I appreciate that you wanted the most skilled and experienced people to serve as counters, but your decision seems to be directly contradictory to state law, regulations and CACEO recommendations and, since you knew

that the Prop 37 folks were shy on funds (as Mr. Courbat explained to you), it's puzzling that you would make that choice and charge an estimated 150% more than the law would allow for the counting Board Members.

Lastly, while broad experience of counters might come in handy (it could also be a conflict of interest), you also included the full salary and benefits for three (3) very expensive "Executive Staff". While I find no directives in either the code or the regulations that requires 3 Executive Staff to be present for the entire day, it certainly seems that 3 of the top staff members in the office, including yourself, would be more than experienced enough to handle any unexpected issues that might arise, no?

And all of *that* doesn't even include *any* accounting for the \$14,000 start-up fee, again, the highest that the Prop 37 folks encountered. (Feel free to detail any of that, if you wish, since that hasn't yet been done.)

I'm not trying to corner you here. I'm simply trying to figure out how and why the expenses to count Fresno would be so much higher than other counties the Prop 37 folks looked at, since the exorbitant costs ended up effectively killing their hopes of continued oversight of Prop 37 in the state of California.

I've held my story MUCH longer than planned, so that I can be sure to allow for a full and fair response from you, but your answers continue to beg more questions rather than explain what may have gone on here. Please feel free to speak to the points I've raised, so I can be sure to accurately reflect your decisions in this matter in my report.

Best,
Brad

From: Orth, Brandi [<mailto:BOOrth@co.fresno.ca.us>]
Sent: Tuesday, January 29, 2013 4:57 PM
To: Brad Friedman
Subject: Prop. 37 recount
Importance: High

Mr. Friedman:

When the Secretary of State notified Fresno County of the Prop. 37 recount, it was Monday, January 7, 2013. Ms. Resnick's letter of January 4, 2013 to my Office was attached.

The proponent's January 4, 2013 letter requested a cost estimate for "set-up" costs and daily costs for 1, 2 or 3 recount boards. The scope of the recount, meaning other materials the proponents would want to examine, were not identified. The amount of precincts, nor the specific precinct numbers, to be recounted were also not identified.

I spoke with Mr. Courbat on January 8th, seeking more information regarding the recount parameters. He advised that he would require the Statement of Vote by precinct and the Registered Voter List to analyze what precincts he would like to recount. As mentioned previously, we immediately compiled that data and sent it to Mr. Courbat overnight, Federal Express, without requiring his advance payment which is the standard process our customers must follow.

Based on the vague information regarding the recount parameters that my Office had at that point, we prepared a cost estimate for the recount process. The Code of Regulations states that members of the recount board be registered voters in the County. I knew that the ultimate scope of the recount could also include an examination of all of the election material, such as precinct ballot statements, 1% tally results, rosters, canvass results, etc. The election staff

were also responsible for several of these processes during the election and their experience would be beneficial to provide any explanation to the proponents.

Fresno County takes a recount request as a serious matter and ultimately my Office wants to be as efficient as possible in responding to the proponents requests and questions. Based on the fact that the recount parameters had not yet been identified, I made the decision that it would be appropriate to use experienced election staff to not only serve as recount board members but also to utilize them to explain and respond to any other election process question.

If the proponents would have given us more details regarding the scope of the recount, then we could have tailored our estimate more closely. As the law states, the cost estimate is just that, an estimate. Only actual costs would have been charged to the proponents.

That reasoning also applies to our cost estimate based on a regular 8 hour day. The proponents would only be charged for the actual hours worked on this process. And, conversely, if the daily costs exceeded our daily cost estimate, the proponents would be responsible for paying the total costs incurred.

Given that no specific parameters were provided to my Office, the cost estimate was prepared with the intention of having the most appropriate staff available to provide responsive answers to the proponents.