

From: Marilyn Marks <marilyn@aspenoffice.com>
Sent: Saturday, July 13, 2013 4:51 PM
To: Public UVS Panel; Al Davidson (Temporary)
Cc: harvie@electionquality.com
Subject: RE: please reconfigure the Colorado Uniform Voting System project
Attachments: CitizenCenter Comments UVS Draft RFP.pdf

Citizen Center agrees wholeheartedly with Harvie Branscomb's comments below.
Please consider us a co-signer of this letter. You should have also received our attached comments which are consistent with Harvie's letter.

To the Colorado SOS Uniform Voting System Project:

The Colorado Secretary of State has focused attention on the value to be obtained if Colorado swaps out the equipment we use for elections. Secretary Gessler has launched a "uniform voting system" project whose parameters will be defined by August 1 and vendors selected by end of year. The co-signers of this letter would like instead to see Colorado election officials and voters both benefit from a patient, well designed and open process that will guide future equipment purchases. The process must first openly decide upon goals and quantifiable metrics for success. Components of the voting system ought to conform to intentionally designed specifications for standard interfaces to permit smooth interoperability.

Delay makes so much more sense than to jump straight from where we are now to a decision about a vendor. And the delay gives us a chance for citizens to participate in a public and principled process that can respond to many changes initiated by the 1303 bill as well as accommodate many advantageous options that are soon becoming available, including those that will have Colorado's design requests in mind.

We the signers collectively request to terminate the current plan to issue the August 1 RFP. We ask the Secretary to launch a public process intended to define specifications by mid 2014 or later, and use the 2013 election as an opportunity for data gathering and increased understanding of what 1303 will do to and for Colorado's electorate.

Signed
Harvie Branscomb

(co-signer)Marilyn Marks, Citizen Center Marilyn@TheCitizenCenter.org

Background:

The absence of a clearly established consensus about what our election system's priorities are is a fundamental obstacle to our ability to acquire a system of quality. The Secretary's UVS project and the 1303 bill both give us an good excuse and excellent opportunity to start from basics before acquiring new systems. I fear that we are quietly hiding failings of design of our existing systems. It is hard to imagine how we will succeed in obtaining a better system, even if it is arbitrarily selected in a way to be uniform. Some for of uniformity may be one goal, but it is not enough. It is certainly not the only goal.

The ad hoc presumption that staff from our existing county elections offices and at the CDOS are the best team to design the parameters of our next system might turn out to be a severely limiting. The Secretary's rush to come to a conclusion is certain to be a limiting factor, especially when highly knowledgeable public are at last being brought into the process.

The Secretary on Thursday made what sounded like an eloquent argument that there is no better time than now to select a system. The argument he used would have worked equally well two years ago or two years from now. The argument ignored the special conditions we find ourselves in. Mr. Gessler is trying to lead us in a drastic transition toward uniformity from a condition of huge differences between counties and confusion generated by 1303. He opined correctly that there will always be something better tomorrow. That is only an abstract observation that simply ignores exceptional conditions that Colorado and the election equipment market are now in.

We are experiencing the aftermath of a huge federal spending spree in the mid 2000's to obtain electronic voting equipment that has proven itself inadequate. We are only slowly approaching the expected end of life of equipment bought at that time. Large numbers of people are now working on innovative alternative systems, and will continue to do so mostly because some states have indicated an interest in innovation. Colorado had resembled one of them. But the rush to a conclusion this year proves otherwise.

The Secretary may find himself single-handedly defending his theoretical and impractical shift to uniformity. His unique desire for a speedy jump to uniformity is self-admittedly aimed at saving money, and seems not particularly concerned about quality or improvement upon the past. We need to balance these goals.

A major shift in the target and timing of the RFP process is merited. We can use the RFP process to identify several vendors who can demonstrate their election wares in the follow-through to the 2013 election. We can plan for substantial data gathering at locations set up for the purpose to test under close to live election conditions some of the latest versions of equipment, long before we make a decision to buy only from one of them for years to come. This would also give us time to open our planning to future-looking options.

written by Harvie Branscomb

July 13, 2013

To: Secretary Gessler, Deputy Secretary Staiert, UVS Advisory Committee, Public Participation Committee

From: Marilyn Marks, Citizen Center

Re: UVS RFP Draft –Public Comment

Summary of comments

RFP is significantly premature. UVS cannot be implemented as designed, and fails to define the problem intended to be addressed--

--UVS goals reflected in RFP process are in conflict with Colorado statutes regarding system certification requirements.

--Uniform voting system goal in conflict with legislative intent for multiple competitive systems as currently embedded in statute. Secretary may lack authority to mandate a uniform system.

--Voting systems are on cusp of strategic architecture/design shift. New, attractive concepts are not yet commercially available and do not yet address or meet state or national certification standards.

--Traditional voting systems products (even new products) use outdated, complex technology.

--Colorado DOS Election Division does not have budget or technical staff capacity to design, develop evaluate, and manage certification of a “voting system” using multiple vendor “plug and play” components.

--HB 1303 demands immediate major changes in SCORE access, ballot handling, and document processing. Data from November 2013 election, and interim special elections is essential to inform the process in specifying new system requirements.

--Reshape UVS project to study voting trends and needs in Colorado in light of HB 1303 and develop long term strategy addressing coming technology changes and financing requirements.

--Counties requiring immediate system replacement or upgrade can purchase certified equipment under the present Title 1 and SOS Rules, and be grandfathered in when new legislation is drafted. (Likely not until 2015.) Encourage, rather than discourage,

competitive leasing or purchase of available new products that meet Colorado's certification requirements.

My comments are conceptual and address the goals and timing of the UVS project rather than detailed in the RFP Draft.

Process limits credible, innovative vendor responses

I believe that the Draft Requirements do not fairly and sufficiently take into account Colorado's regulatory and statutory constraints in selecting voting systems. As a result, it is likely that only one or two vendors (traditional voting system vendors) can credibly respond with proposals for new systems that are legally permissible in Colorado.

If a goal of the UVS project is to encourage new voting system entrants and innovative products, the process as designed will defeat that purpose and discourage credible new vendors. New vendors who understand the statutory and regulatory requirements will be unable to credibly propose equipment to meet those certification requirements based on VVSG2002 standards. This will discourage vendor responses that would otherwise introduce innovative products. Reliable vendors will not expend considerable resources or disclose competitively sensitive information in order to respond when they understand that they cannot be awarded any intermediate term contracts.

Conflict of Statute and RFP for UVS Technical Requirements

It appears that the RFP contemplates proposals from voting system component vendors without reference to the statutory (and regulatory) constraints as well as current EAC guidelines. CRS 1-5-601.5 requires all systems to meet at a minimum, VVSG2002 standards, with EAC updated VVSG standards optionally applied at the discretion of the Secretary. Only the traditional system vendors have systems meeting that standard.

Certification of a system (required in Colorado) requires a "system vendor" to submit a system for testing by a federally accredited lab. (CRS **1-5-608.5**) Only traditional vendors are currently positioned to submit such systems for testing. The testing is expensive and time-consuming. The DoS is not in a position to become a "vendor" to develop a voting system using "plug and play" componentry that might be proposed in response to the RFP.

In short, it appears that any new product offerings other than the new Dominion or ES&S systems (certified by EAC) are not feasible from a timing or technology standpoint.

UVS goals conflict with legislative intent for competitive systems

Secretary Gessler's letter inviting comment states—

Colorado Secretary of State Scott Gessler intends to select a Uniform Voting System so all voters in all Colorado counties have the same voting experience on the same voting equipment and the processes for issuing, casting and counting votes will be uniform throughout the state.

While there are arguable benefits of cost efficiency and less complexity in selecting a single system for the state, there are potentially countervailing arguments for authorized competitive systems being in use. It appears that the legislative intent in Colorado has been to encourage competition in certified systems. In fact CRS 1-5-608.5 (3) (a) requires that the Secretary **shall** approve certification, purchase and installation of systems meeting the certification criteria. There is no authority for the Secretary to limit the number of voting systems, if they meet the statutory certification standards.

There appears to be a conflict between the current goal of a uniform system, and the legislative intent for competitive voting systems. It would seem unwise to invest the resources in this project without a reconciliation between current legislative requirements and long term strategic recommendations from the DoS.

Election Division lacks resources or authority to manage system development and testing

The UVS project seems to request either a new product from an existing traditional voting system manufacturer or a “plug and play” system of components from non-traditional suppliers. While “plug and play” may be attractive longer term, there is no identified “vendor” to design and test component interface and design the system architecture. The DoS Elections Division does not have the technical or budget resources or authority to become that “vendor” or “system developer.”

As a result, the plan appears unrealistic, and cannot be executed unless a traditional vendor’s new product is selected. And even if such a new product is selected, all vendors’ qualifying new products must be approved for purchase by statute.

HB1303 implementation requires reassessment of voting system needs

1303 will require massive changes in voter interface, centralized ballot processing, ballot transport and handling, and signature and eligibility verification. With no experience in operating under 1303 requirements, simultaneously choosing a new voting system seems like a lost opportunity for essential and fundamental input. Equipment issues such as use of precinct scanners versus centralized scanners are as yet undetermined and untested under 1303. Quantitative data should be scientifically collected during the remainder of the year for special elections, local elections and the November state-wide election. Such data should be thoroughly analyzed, perhaps over multiple elections before selecting new systems.

Alternative Recommendation

Consider using the dedicated UVS resources to develop a plan to collect voting systems needs data and perform experiments during 2013 elections to inform systems strategy going forward. Develop RFP for qualified vendor to collect scientific real time data from various size counties using various current equipment configurations, and design and supervise objective experiments. For example, test the concept of regional central count operations for mail ballots for groups of rural counties. Additionally, the data collection should include interface issues with SCORE given the changes mandated by 1303.

System vulnerability assessments should also be designed to analyze enhanced security needs due to 1303 processes, and sophisticated methods of electronically attacking voting systems.

Additionally through RFP or otherwise, invite new component vendors to use 2013 elections to undertake demonstrations or pilot projects to field test new offerings.

Summary

While improved, more secure, more user-friendly voting systems are highly desirable, the UVS project focus and timing is in conflict with technological, statutory, management and financial constraints. Overcoming even one of these significant obstacles does not solve the others. Any one of those obstacles are “show stoppers” for the foreseeable future. Therefore, a focused reallocation of resources seems to be required to best address the voting system strategy needed to meet Colorado’s future voting system needs. Please revisit the goals, present statutory, technical and budgetary constraints before releasing an RFP.

Thank you for this opportunity to comment and for your consideration.

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