

I am writing on behalf of Diebold Election Systems, Inc. ("DESI") in response to the information request dated January 15, 2004, of the Voting Systems and Procedures Panel ("VSPP Request.")

As you know, the VSPP Request requested production of the identified information by "Friday, February 15, 2004." (However, February 15th is a Sunday.) As I mentioned several times to the VSPP's lawyers, it was not reasonable for the VSPP to expect production of all of the information requested in 30 days given the scope of the VSPP Request. Indeed, before the VSPP Request was even issued, DESI informed VSPP personnel that 120 days would be needed to permit DESI to make an appropriate response.

Furthermore, after sending the VSPP Request, the VSPP then made a further request for the immediate production of certain DESI computer source code and related materials. DESI presumes that this request for source code was made pursuant to category 10 of the VSPP Request. I have been in daily communication with VSPP representatives and lawyers working on the production of the source code. The VSPP's new source code request has been an extremely time-consuming project. I have separately sent the attorneys for the VSPP what I believe is a final agreement for the production of the source code.

I mention the issue of the source code because it has required a significant amount of resources, and because DESI sought to address this request in the immediate time-frame requested by the DESI. DESI does not object to the VSPP prioritizing its requests for information from DESI. At the same time, the VSPP must recognize that adding new requests that it identifies as its highest priority will mean that DESI's response to other VSPP information requests will be affected.

Nonetheless, DESI has made significant progress towards supplying the information in the VSPP Request. Several categories are ready for production as soon as a Confidentiality Agreement can be signed among the parties. I have enclosed a proposed agreement with this letter.

In the following paragraphs, I provide the status of DESI's collection of the requested information, using the same paragraph numbers as in the VSPP Request.

1. DESI is collecting the information previously given to Steve Freeman regarding GEMS versions. However, it is likely that DESI will not be able to provide the VSPP with a precise duplicate of everything that previously has been

provided by DESI to Mr. Freeman. DESI did not necessarily make a copy of everything given to Mr. Freeman. Nonetheless, DESI will begin producing the information it has copied next week, subject to an executed Confidentiality Agreement. Of course, Mr. Freeman will have the information previously received from DESI, and the VSPP can obtain that information directly from Mr. Freeman if it wishes. (DESI's proposed Confidentiality Agreement addresses restrictions on the information Mr. Freeman has received from DESI.) I am also informed that personnel at DESI also are currently working directly with Mr. Freeman to provide him with the additional information he has requested. As that information is provided to Mr. Freeman a copy will be forwarded to the VSPP, if you wish.

2. For each of the GEMS and DRE versions that are identified in the R&G audit report as currently installed in California counties, DESI is collecting the release notes that describe the changes made from the previous versions. DESI will begin producing this information next week, subject to an executed Confidentiality Agreement.

3. DESI is collecting the federal and state certifications for the versions that are identified in the R&G audit report as currently installed in California counties. DESI will begin producing this information next week.

4. DESI has collected its material return procedure applicable to maintenance returns. This will be produced next week.

5. This request asks for a search of all DESI correspondence since January 2001. Unfortunately, it is not physically possible to accomplish this search in the 30 days requested by the VSPP, and indeed may not be possible even with several months work. DESI understands that the VSPP is interested in information concerning the alleged installation of uncertified software and concerning other alleged certification requirements. DESI proposes that an initial review be conducted of files most likely to discuss certification issues, and that the initial results of that review be reported to the VSPP within 30 days.

6. DESI has collected its security procedures manuals. These will be produced next week, subject to an executed Confidentiality Agreement.

7. DESI has collected copies of the requested contracts. These will be produced next week, subject to an executed Confidentiality Agreement.

8. Windows CE is configured for use in DESI's TS and TSx platforms. Configuration includes installation of drivers for specific hardware components (e.g., display touch screens) and identification of other hardware elements (e.g., memory and processor devices) used in the platforms. DESI will prepare a description in more detail of the specific aspects of Windows CE configuration for DESI's TS and TSx platforms in California. DESI expects to begin producing this information within the next two weeks, subject to an executed Confidentiality Agreement.

9. DESI does not modify the Smart Card hardware or software used in DESI's TS and TSx platforms in California.

10. DESI is ready to consider any further information requests that the VSPP may have concerning its investigation. Indeed, as discussed above, after receiving the VSPP Request, the VSPP made a further information request for certain source code and related materials, and requested that it be produced immediately.

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I look forward to continuing to work with the VSPP in supplying DESI's response to the VSPP Request.