



Office of Secretary of the State

State of Connecticut

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Susan Bysiewicz
Secretary of the State

Maria M Greenslade
Deputy Secretary of the State

November 21, 2005

Mr. Joel Cogen
Executive Director and General Counsel
Connecticut Conference of Municipalities
900 Chapel Street – 9th Floor
New Haven, CT 06510-2807

Dear ~~Attorney~~ Cogen:

This letter is in response to recent correspondence dated November 8, 2005 and November 14, 2005 regarding the status of the current Request for Proposal (“RFP”). More specifically, you advocate for the cancellation of the current RFP to provide one other vendor, AutoMark Technical Systems, the opportunity to participate in the RFP process. As you are aware, the State of Connecticut is required to implement new electronic voting equipment in the State of Connecticut by January 1, 2006 in order to comply with the provisions of the Help America Vote Act (“HAVA”).

To ensure compliance with this strict deadline, I began the implementation of HAVA back in 2003 with the formation of the HAVA State Planning Committee. This Committee was comprised of members of various organizations, including a representative member from your organization, and this Committee assisted my office by advising on the separate components of the HAVA State Plan for the State of Connecticut, including replacement and purchase of voting equipment. The State Plan did contemplate that the State of Connecticut would keep our lever voting machines and provide each municipality with one fully compliant HAVA voting machine for each polling place for use by persons with disabilities. This plan was filed with the federal government in July 2003. The State of Connecticut State Plan was accepted by the federal government as evidenced by our state receiving approximately \$33 million dollars in federal funding.

Pursuant to the acceptance of our state plan by the federal government, my office had began the procurement process in anticipation of adding only one HAVA compliant fully accessible voting machine in each polling place in a municipality. In September, this understanding changed dramatically. We received rather stunning news from the United States Election Assistance Commission that lever voting machines do not comply with HAVA and would have to be replaced. *Please see our letter to Mayors and First Selectmen dated September 23, 2006 attached hereto as “A”.* In response to this news I requested Attorney General Richard Blumenthal inquire about this matter with the Department of Justice, and we are eagerly awaiting word from him as to the result of that inquiry. *Please see our letter to Mayors and First Selectmen dated October 14, 2005 attached hereto as “B”.*

Commercial Recording Division	(860) 509-6001	fax (860) 509-6069	State Capitol Office	(860) 509-6200	fax (860) 509-6209
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General Information	(860) 509-6000		Management & Support Services	(860) 509-6190	fax (860) 509-6175

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As the Chief Election Official for the State of Connecticut it is my duty to ensure that the State of Connecticut is able to comply with the approaching HAVA deadline of January 1, 2006. Therefore, I have developed a series of choices that municipalities would have should the United States Department of Justice continue to prohibit the use lever voting machines. These various options are: 1) a full replacement of lever voting machines with fully compliant HAVA electronic voting machines or 2) a full replacement of lever voting machines with a combination of optical scan voting equipment and fully compliant HAVA electronic voting machines. *Please see our letter to Mayors and First Selectmen dated October 14, 2005 attached hereto as "B"*. Although I am unable to ensure that my Office will fully fund either of these replacement options at this point because no one, not even myself, has access to the full pricing of the machines submitted pursuant to the current RFP, it is my intention to use any portion of the federal funds received pursuant to HAVA to fund these options. It is my full intention to fully fund this replacement to the extent possible with the available federal funding.

In order to facilitate the successful implementation of option "2" above and in regard to your advocacy for AutoMark Technical Systems, I have contacted all vendors listed on the most recent Federal certification list and asked them to provide me with information regarding their optical scan equipment and how their equipment meets the requirements in the Connecticut General Statutes for certification of voting equipment. *Please see our letter to vendors dated September 28, 2005 attached hereto as "C"*. This request was made separate and apart from the current RFP and is not intended to replace the RFP. This inquiry was intended to gather the necessary information to enable the State of Connecticut to provide municipalities with the equipment necessary to satisfy the requirements in the Connecticut General Statutes related to the use of optical scan voting equipment. With this second option available to all municipalities, it is unnecessary to cancel the existing RFP. Any optical scan equipment purchased by the State of Connecticut for use by the municipalities can be purchased separate and apart from the current RFP. Also, once a fully accessible HAVA compliant voting system is available in each polling place in the State of Connecticut (purchased through the existing RFP), the use of any extra "ballot-marking device" becomes unnecessary.

As of the date of this communication, we have received one positive response to our letter of September 28, 2005 from an optical scan vendor whose optical scan voting system has been certified for use in the State of Connecticut since 2001. AutoMark Technical Systems did submit a letter in response to my request. However, the response was submitted through ES&S, a manufacturer of optical scan voting equipment and the company responsible for the sale and distribution of a ballot-marking device. The response failed to describe how their voting system complies with the Connecticut General Statutes or provide me with any information regarding their voting system. *Please see the letters regarding this matter dated October 13 and 19, 2005 attached*

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hereto as "D". Therefore, I am unable to certify any voting system that fails to demonstrate how such system fully complies with Connecticut General Statutes.

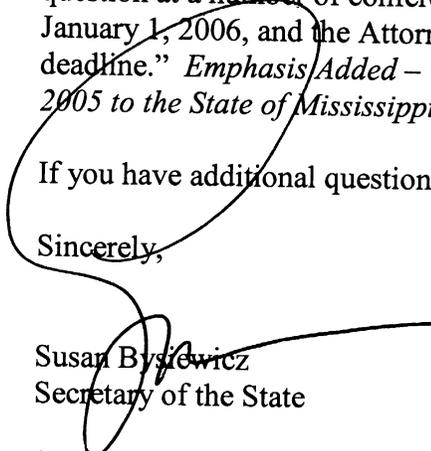
In a separate letter, AutoMark Technical Systems, the actual ballot-marking device manufacturer requested that the State of Connecticut certify its ballot-marking device by itself, and thereby permit it to be used with *any* optical scanning device. Since the AutoMark is only an attachment and not a full voting system, Connecticut General Statutes prohibits me from certifying its use. *Please see the letters regarding this issue dated September 29, 2005, October 27, 2005, and November 15, 2005 attached hereto as "E"*. In addition, federal certification standards do not recognize "ballot marking devices" as voting systems and as such, even the federal government would not issue such a certification. Consequently, I cannot certify the AutoMark attachment unless it is associated with a specific optical scanner to count such ballots, the entire system accommodates a "full-faced ballot", and the entire unit has the appropriate federal certification.

We are continuing to move forward with the purchasing process, as at least one HAVA compliant machine must be in each polling place in time for the federal election of 2006. To date, my office, pursuant to the advisement of the Department of Administrative Services has followed all applicable State of Connecticut procurement procedures. This process, governed by Connecticut General Statutes and supplemented by my efforts to secure optical scan voting equipment, will ensure that the State of Connecticut will fully comply with all of the federal requirements in HAVA by the applicable deadlines.

Strict compliance with all applicable deadlines is not only important to avoid enforcement action by the United States Department of Justice, but also to avoid the risk of losing the valuable federal funding that the State of Connecticut has received to implement the provisions of HAVA. The United States Department of Justice has reiterated this fact in numerous letters in the past by stating, "With respect to the deadline under Section 301(a)(3), the [United States Justice] Department has also answered this question at a number of conferences - Congress has set the date for compliance as January 1, 2006, and the Attorney General does not have the legal authority to extend this deadline." *Emphasis Added - United States Department of Justice Letter of March 4, 2005 to the State of Mississippi.*

If you have additional questions, please contact me at (860) 509-6200.

Sincerely,


Susan Bysiewicz
Secretary of the State