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LEGISLATION & ELECTIONS
ADMIN. DIVISION

September 29, 2005

VIA PRIORITY MAIL

Mr. Michael Kozik
Director of Elections
30 Trinity Street
Hartford, Connecticut 06106

Re: Use of AutoMARK Voter Assist Terminal to Mark Diebold Ballots

Dear Mr. Kozik:

AutoMARK Technical Systems, LLC ("ATS") has been aware for some time that certain counties within the State of Connecticut would like to supplement their existing Diebold™ AccuVote™ based election system with the ES&S AutoMARK Voter Assist Terminal ("AutoMARK"). We have reached out on several occasions to Diebold to work cooperatively with us to meet those customer needs, but have received no response. Accordingly, we take this opportunity to request your input regarding certifying the ES&S AutoMARK Voter Assist Terminal™ as a stand alone unit for use with the AccuVote optical scan tabulation system in the State of Connecticut.

As you are likely aware, the AutoMARK is a ballot marking device and it does not retain or count votes. The AutoMARK is configured to have all election data manually entered prior to an election. As a result, the AutoMARK can be fully programmed prior to an election without the use of any input files from the Diebold election management software, i.e., GEMS. Further, a ballot that has been marked by the AutoMARK can be scanned and read by the AccuVote scanner.

Our request for your input arises because The National Association of State Election Directors (NASED), the entity that issues a federal certification or qualification number for voting systems, will not, as a matter of policy, certify the AutoMARK as a stand alone unit. Instead, NASED will only certify entire voting "systems" which must contain both the ballot preparation and count functionality. With respect to certifying the AutoMARK in conjunction with the AccuVote, NASED will not consider such a request without the consent of Diebold which to date has not been forthcoming.

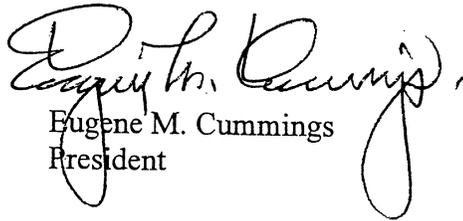
Mr. Michael Kozik
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That said, the AutoMARK is already capable of marking Diebold ballots, and ATS can arrange for an Independent Testing Authority (ITA) to confirm this by observing the AutoMARK being manually programmed to mark various AccuVote style ballots. We can then provide these marked ballots to the State of Connecticut so that it can confirm, at its discretion, that the marked ballots are accurately tabulated. Our basic question is whether the State of Connecticut is willing to certify the AutoMARK for use with the AccuVote if we pursue the strategy outlined above.

We respectfully request your comments, thoughts and participation in this project. There are many states currently in your situation that are contemplating this solution. Thank you in advance for your continued interest and consideration.

Very truly yours,

AUTOMARK TECHNICAL SYSTEMS, LLC



Eugene M. Cummings
President

EMC/md



Office of Secretary of the State

State of Connecticut

30 Trinity Street, P.O. Box 150470, Hartford, CT 06115-0470

Susan Bysiewicz
Secretary of the State

Maria M Greenslade
Deputy Secretary of the State

October 27, 2005

Eugene M. Cummings
President
AutoMark Technical Systems
One North Wacker, Suite 4130
Chicago, IL 60606

Dear Mr. Cummings:

This letter is in response to your recent inquiry regarding State of Connecticut certification of the ES&S AutoMARK Voter Assist Terminal ("AutoMARK"). More specifically, you inquire whether the State of Connecticut is willing to certify the AutoMARK for use with the Diebold AccuVote optical scan voting system.

Pursuant to Connecticut General Statutes §§9-241, 9-242, 9-242a and Connecticut Regulations §9-242-1 the Secretary of the State may certify for use in elections, primaries and referenda in the State of Connecticut only those voting machines that have first been certified by an Independent Test Authority accredited by the National Association of State Election Directors ("NASED") (or its successor organization). Voting machine is defined as a "machine, including but not limited to, a device that operates by electronic means, for the registering and recording of votes cast at elections, primaries and referenda."

Therefore, any voting system approved for use in the State of Connecticut must have the ability to both cast or "register" and ultimately create a final tabulation or "record" of the votes cast by individuals. In addition, the entire voting system, both the mechanism to "register" and the mechanism to "record" the votes must have NASED certification as a *complete voting system* before such system can be considered for certification in the State of Connecticut. To be used in the State of Connecticut the actual optical scanner used with such system, together with the ballot marking device, would have to be approved for use according to the 2002 voting system standards established by NASED and the United States Election Assistance Commission.

Should you have any additional questions, please contact our office at (860) 509-6100.

Sincerely,


Michael T. Kozik
Managing Attorney

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Commercial Recording Division

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Legislation and Election Administration Division

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Office of Secretary of the State

State of Connecticut

30 Trinity Street, P.O. Box 150470, Hartford, CT 06115-0470

Susan Bysiewicz
Secretary of the State

Maria M Greenslade
Deputy Secretary of the State

TO: All Mayors and First Selectman
FROM: Secretary of the State Susan Bysiewicz
RE: Update on Electronic Voting Equipment
Date: November 15, 2005

This memorandum is intended to provide you with an update regarding our progress towards the implementation of electronic voting equipment in the State of Connecticut in order to comply with the provisions of the Help America Vote Act ("HAVA"). As many of you know, we received rather stunning news in September that lever voting machines do not comply with HAVA and would have to be replaced. Our Attorney General, Richard Blumenthal is currently reviewing this matter with the Department of Justice, and we are eagerly awaiting word from him as to the result of that inquiry. As the Chief Election Official for the State of Connecticut it is my duty to ensure that the State of Connecticut is in the best position to comply with the approaching HAVA deadlines of January 1, 2006. Therefore, I developed a series of choices that municipalities would have should the United States Department of Justice continue to prohibit the use lever voting machines. In my last communication to you, I described the various options that each municipality would have as we move forward and plan to replace our aging fleet of lever voting equipment. Briefly, these options were: 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.

Since my last meeting with your leadership on September 21, 2005 and since my last written communication to you on October 14, 2005, 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. As of the date of this communication, we have received one positive response from an optical scan vendor whose optical scan voting system has been certified for use in the State of Connecticut since 2001.

One other company, a manufacturer of optical scan voting equipment and the company responsible for the sale and distribution of a ballot-marking device, did send a letter, but that letter failed to describe how their voting system complies with the Connecticut General Statutes. In a separate letter, the 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. The Federal government has indicated that they would not issue such a certification. Consistent with Federal law and Federal certification standards, Connecticut law permits certification of a voting system as a whole, not its separate components. Consequently, I cannot certify a ballot-marking device unless it is associated with a specific optical scanner to count such ballots 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. Public demonstrations of the machines are being held in conjunction with the University of Connecticut throughout the state during the week of November 14, 2005. I encourage all of you to attend and give us feedback as to your opinion of each machine.

Commercial Recording Division	(860) 509-6001	fax (860) 509-6069	State Capitol Office	(860) 509-6200	fax (860) 509-6209
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