



miami-dade election reform coalition

October 27, 2003

Via Facsimile

George Burgess, County Manager
Miami-Dade County
Stephen P. Clark Center
111 N.W. 1st Street, Suite 2910
Miami, Florida 33128

Re: Resolution #R-994-03 – 120 day study to implement voter-verified paper record mechanism for DRE's

Dear Mr. Burgess:

I am writing on behalf of the Miami-Dade Election Reform Coalition¹ to provide Miami-Dade County with our thoughts and requests as the County conducts its study on the feasibility of implementation of a voter-verified paper record mechanism for Miami-Dade County's touch screen voting machines DRE's and to update you on the status of MDERC's efforts in connection with the study. We understand that the County will be reporting back to the Board of County Commissioners (the "BCC"), within 120 days, or no later than January 2004.

Need for an Open and Transparent Study Process, Including a Public Hearings and Product Demonstrations:

After the disastrous primary election of September 2002 and the costly general election held in November 2002, much work has been done by the BCC, the County, and local community groups, especially MDERC, to restore the public's confidence in our elections system. That work cannot stop now. It especially cannot stop on this important an issue. Indeed, the question of whether and to what extent this County will adopt a requirement of voter-verified paper record for the County's DREs is probably the most important elections related issue that will confront this County for a long time to come.

¹ *The Miami-Dade Election Reform Coalition (MDERC) is a broad-based network of individual citizens and citizen groups deeply concerned about our democracy and devoted to the improvement of the democratic process and the electoral systems that enable that democratic process to function. The Coalition came together in the aftermath of Miami-Dade County's failed September 2002 primary elections – elections that served only to deepen the well-founded sense of disillusionment and mistrust formed after the disastrous Presidential election of 2000. The Coalition's volunteers became aggressive advocates for change, swiftly offering a comprehensive list of solutions to guarantee that every eligible voter has the opportunity to cast a ballot and that this ballot will be recorded accurately and counted. The effective work of the MDERC has earned the respect of elected officials, County staff, and outside third parties who came to Miami-Dade County to work on elections issues.*



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This is why the issue must be resolved in the open, in a transparent process, with full community participation. To this end, MDERC requests the following:

1. A series of public hearings to be held at all different stages of the 120 day study. These hearing should include computer scientists, political scientists, experts and scholars in the field, ADA, minority, and other advocacy groups, as well as vendors, competitors of Elections Systems & Software, Inc. (“ES&S”), and any other entities that might have useful information on the subject.
2. All hearings need to be advertised in local newspapers, radio and television stations, as well as trade publications for elections professional and vendors. Announcements should also be posted on the County’s web site and distributed to all available list servers of which members of the County’s elections department are a part.
3. Three Miami-Dade municipalities have passed resolutions calling for paper records – South Miami, Miami Beach, and Bay Harbor Islands – and others are expected to do so. These municipalities are dependent on the county’s election process and deserve a chance to be heard in a public, county setting.
4. Because of the nationwide interest in acquiring DREs that have the capability to produce a voter-verified paper record, elections system vendors around the country, not just ES&S, have been working on perfecting DRE systems that can produce such a record. This County owes it to its citizens to review and assess all available technology – regardless of the vendor. We must be prepared to reap all of the rewards of a competitive marketplace. Allowing vendors to demonstrate their wares will stimulate that competitive process and that promises to be to our ultimate benefit. All such product demonstrations should be open to the public.

MDERC Holds Demonstration Meeting with Three Vendors Participating:

MDERC is committed to assisting the County in its 120 day study. This this end, MDERC held an open demonstration meeting on October 15, 2003. Three vendors, including ES&S, were present at the meeting with two giving actual demonstrations, Tru Vote and ES&S. The Supervisor of Elections, Constance Kaplan, was present and participated in the meeting. We will be providing you with a more detailed report on what we learned, within the next several days. However, our meeting was only a first step which should be followed by a meeting organized and sponsored by the County.

Despite its previous public announcements that it had developed a voter-verified paper record capability for its DRE machines, ES&S asserted at the meeting that since no such technology guidance has been certified by the State of Florida, ES&S is looking to the County to give ES&S guidance and for the two to work together to outline appropriate requirements in connection with the technology. Ironically, the Supervisor of Elections stated at the October 15, 2003 meeting that until such technology is certified



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she would not give anyone guidance on the subject and that her “hands were tied.” She further stated that it would not be proper for the County to openly assist ES&S (or any other vendor) by giving it guidance on the technology or pushing to have a voter verified paper record technology certified.

MDERC is very concerned about these pronouncements. They are not only illogical, but also fly in the face of the Department of Elections and the County’s previous decision to spend \$25,000,000 on technology that had a language component that was not yet certified at the time of purchase. The Supervisor’s statements also run counter to current efforts, on the part of the County to assist ES&S in certifying software to reduce the boot-up times for the DRE machines. When confronted with these facts, the Supervisor responded that those situations were different because they “involved software” modifications. MDERC frankly does not see the distinction as it appears to be nothing more than a rationalization designed to create a barrier to progress. The rationalization also flies in the face of the study ordered by the BCC which requires Miami-Dade County to request ES&S make a good faith assessment of all issues leading to their offer of such a product, including pricing, date of availability, and a timeline for when certification would be sought.

However, the County cannot stop there. It must also actively seek out offers from other vendors. MDERC has shown that this is not only possible, but also very instructive. After the October 15, 2003 meeting, even the Supervisor of Elections was forced to admit that she learned a lot from the meeting.

Need for a Preliminary Report to be Provided to the Community for Comment:

Because there are so many parties that have an interest and a stake in the issue of whether this County will adopt a requirement that its DREs produce a voter-verified paper record, we ask that the County provide a draft of a preliminary report to the public for feedback and comment. We further request that the written comments and feed back provided be attached to and be made a part of whatever final report is adopted by the County.

Need to Provide Interested Parties With All Documents Requested:

The County has access to and custody of documents and information that might assist other interested parties in advocating for their positions and in responding to claims or assertions made by the County in the course of this investigation. As a result, we ask that the County strictly adhere to the Public Records laws of this State and that it expeditiously provide requested documents or information to interested parties. In that vain, the MDREC requests copies of the following pursuant to Fla. Stat. §§ 119.01-119.07:



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1. A complete copy of the County's file to date on this matter. It is noted that multiple BCC requests for study information have been made since the resolution's introduction in June 2003. Please include the results of that work.
2. A cost range of \$10 – \$18 million was quoted by your office in the September 11, 2003 BCC meeting. Please provide all back-up for that range.
3. Any and all legal opinions, memoranda, or correspondence wherein the County Attorney's office has rendered an opinion or made an assessment of the need (or lack thereof) for a voter-verified paper record, the suitability of the current system, or the requirements of Florida state law or federal law, including HAVA.
4. Any and all correspondence, including memoranda, letters or outlines, prepared by you or at your request, or prepared by the Department of Elections or any other member of the county's staff outlining or guiding the study.
5. All correspondence between the County and ES&S from November 2002 to the present.
6. All price quotes obtained by the County on the issue of voter-verified paper record.

We also ask that you provide us with the following basic information:

1. The name of the office and contact person coordinating this study.
2. Please confirm that the various aspects of the study must be actively pursued **concurrently**, rather than sequentially, in order to be consistent with the "good faith" referred to in the amended resolution, as time is of the essence.
3. A statement of what areas will be studied by the County, and who is responsible for studying each area with a short explanation of the focus of the study. For example, "legal will be studied by X with a focus on whether HAVA monies can be used by Miami-Dade County to retrofit its DRE machines to provide a voter-verified paper record."

Thank you for your earliest reply to this letter. We at the MDERC treasure voting and its role in our democracy. We are looking to work with your office, the County Attorney's office, and the Department of Elections to be part of the solution. This County has a unique opportunity to learn and lead and shine. We seek to be part of that in any way we can.



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Please don't hesitate to let us know how we can help and if you have any questions further to this inquiry. We look forward to your prompt reply.

Very truly yours,

Lida Rodriguez-Taseff
Miami-Dade Election Reform Coalition

cc: BCC
County Attorney
Supervisor of Elections
Miami-Dade League of Cities
MDERC members

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