



miami-dade election reform coalition

July 1, 2004

Via Federal Express

Governor Jeb Bush
Executive Office of the Governor
400 South Monroe Street
The Capitol
Tallahassee, FL 32399

Re: Independent Audits - A Positive Vehicle for Restoring Voter Confidence in Our Voting Systems

Dear Governor Bush:

I write you on behalf of the Miami-Dade Election Reform Coalition¹ to urge you to order independent audits of Florida's voting systems to determine whether they are working properly and to increase voter confidence that state officials are doing everything possible to protect the rights of voters.

In support of our request, we refer you to the audit trail problems uncovered in Miami-Dade's Direct Recording Electronic voting machines or DREs which are manufactured by Nebraska based Election Systems & Software (ES&S). These problems have caused Miami-Dade's voting machines to produce inaccurate audit and vote image logs in actual elections. As you may be aware, in one election held in Homestead in October of 2003, the audit logs failed to register the votes cast on five machines. The missing votes (162 in all), constituted approximately 13% of all of the votes cast in that election.

¹ *The Miami-Dade Election Reform Coalition (MDERC) is a widely-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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The audit log problems in Miami-Dade County were alarming enough to cause one county official to repeatedly sound the alarm, stating in a memo that the inaccuracy with the audit logs “would be cause for investigation and research – a lot of questions would be raised.” That Miami-Dade County official also wrote that because of the problems uncovered, the audit logs were rendered useless *for their intended use – i.e., auditing, recounting or certifying an election.* To date, Mr. Governor, the problems uncovered by this dedicated and experienced Miami-Dade County official have not been resolved. In fact, according to Miami-Dade’s own Supervisor of Elections, the problem caused some of the logs from the May 2004 primary election to again be inaccurate.

Miami-Dade’s problems should be a warning to the rest of the state. As you know, DREs are used in 15 Florida counties. ES&S is the largest vendor of DREs in Florida, with 11 counties. The other 4 DRE counties buy their machines from ES&S’s competitor Sequoia. ES&S has recently acknowledged the problems has also admitted that they date back to at least 2002. At least one other Florida county has reported a similar problem and it is suspected that all 11 counties that use ES&S DRE voting machines are also affected.

Under Florida Statutes § 101.591, the Legislature is permitted “upon specific appropriation and directive,” to require “an independent audit of the voting system in any county.” While county elections supervisors may choose to expend their own funds for audits, there is no assurance that they will. Besides, implementation of a certified, secure and fully audited election system is a state responsibility. In our view, you, as our Governor, have several options including using funds already allocated to the Department of Elections or using a small portion of the \$47 million that the State just received from the Elections Assistance Commission (EAC) under the Help American Vote Act (HAVA). *Moreover, you can call a Special Session of the Legislature to have the funds appropriated and the audits ordered.*

We are also asking that you to order random audits of the voting systems in the remaining 52 Florida counties that use optical scan technology. Despite repeated assertions by the Office of the Secretary of State that ours is the most rigorous certification process in the country, the fact remains that the defect uncovered with respect to the DREs reveals a breakdown in the state certification and oversight process. Certification twice failed to catch this problem. Therefore, we need to make sure that we look just as closely at the optical scan systems because all Florida voters deserve to know that their voting technology really works.

Moreover, system audits must be independent and must focus on whether security procedures are actually being followed and on whether the systems accurately record and tabulate votes and produce reports on elections. This is why we believe that any audit of our voting systems must include security reviews which include parallel testing, a



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procedure advocated by the National League of Women Voters and others. This procedure uses actual voting machines on election day to determine that votes on that machine are being recorded exactly as they are cast. Voting system audits must also include performance evaluation of the special voting machines that are used by visually impaired voters.

In this regard, we would direct your attention to the "Recommendations of the Brennan Center for Justice and the Leadership Conference on Civil Rights for Improving Reliability of Direct Recording Electronic Voting Systems," a copy of which is enclosed. DeForest B. Soaries Jr., Chairman of EAC, announced yesterday that he would study ways for the report's recommendations to be incorporated into the work of his commission with local election officials. In a statement accompanying the release of the Report, Chairman Soaries stated that "these recommendations represent important options that address the nation's need for strategies to enhance security and public confidence in the use of electronic voting systems." Your office recently announced that the State of Florida would be receiving approximately \$47,000,000 from the EAC.

Lastly, we read with some distress the comments published in the media where a spokesperson for your office stated that it was our "goal... to undermine voter confidence." It is the absence of consistent and thorough auditing of voting systems in Florida that has increased cynicism in the elections process - not our alerting public officials to the need for such audits. Moreover, mere assertions that everything is OK do not restore voter confidence. Only top-down action that is proactive, transparent and solution-oriented can serve to restore the confidence of skeptical voters and re-invigorate their commitment to our democracy.

We believe that the steps we have outlined above will help increase voter confidence in Florida's election system. We believe that the time to act is now and we urge you to act.

We ask that you respond in writing to us by no later than Monday, July 12, 2004, as time is of the essence. I can be reached at 305-297-9921.

Respectfully,

Sandy Wayland
Legislative Chair
Miami-Dade Election Reform Coalition