



**Ohio Senate**  
Statehouse  
Columbus, Ohio 43215

September 13, 2007

The Honorable Jennifer Brunner  
The Ohio Secretary of State  
180 East Broad Street  
Columbus, OH 43215

Dear Secretary Brunner,

We are writing about your request to members of Controlling Board to waive competitive selection for consulting and testing services related to the performance of Ohio's voting systems. We don't have any objections to testing voting machines to make sure they are secure and working properly. However, we believe it is important for significant questions regarding objectivity, transparency and accountability to be resolved. Before making a decision, we need clarification from you on the following questions that have been brought to our attention by boards of elections officials in our districts and others:

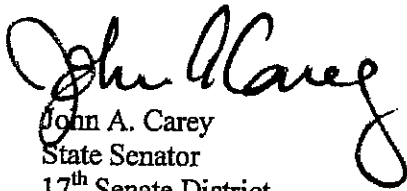
1. Have the companies or consultants you are proposing to hire to perform the testing established objective standards for determining whether the voting machines are secure and working satisfactorily?
2. Have these companies or consultants already developed uniform procedures for testing all machines and why are these companies more qualified than others to perform this work?
3. How will the recommendations of these companies or consultants be weighted if they each reach different conclusions while testing the same equipment?
4. If they are testing different equipment, what procedures are in place to guarantee that each different group is testing for the same things in the same manner?
5. What are the objective criteria for reviewing whether the machines should be decertified?
6. If objective criteria for determining whether the machines should be decertified are not yet established, shouldn't this criteria be established before any testing begins?
7. Are these companies or consultants recommended by the National Institute of Standards and Testing as independent testing authorities?
8. Are these companies or consultants accredited by the U.S. Election Assistance Commission (EAC) as an independent testing authority to test voting machines?

9. If these companies or consultants are not accredited by the EAC, will they be accredited before performing this work?
10. Is your work duplicative to these efforts by the EAC, which has already established national standards for certification of voting machines?
11. Would it be appropriate to use the standards for certification that the EAC has already developed?
12. You have indicated this process will be modeled after the process used in California, but there are questions about whether that process was truly objective. Was testing completed in a controlled secure environment as elections will be monitored?
13. Will the testing procedures in Ohio differ from California and if so, how?
14. There have also been questions raised about whether the academic you brought to Controlling Board has a preconceived notion that electronic voting machines don't work and should be replaced. In addition, two of the other academics you have proposed to hire have publicly stated their concerns about the use of electronic voting machines. Attached please find articles where Giovanni Vigna and Matt Blaze have each stated that they do not believe electronic voting machines will ever be secure. This leads to questions about why these academics were selected over others and whether the testing and analysis will be unbiased?
15. Why is testing necessary when the Boards of Elections are also required to perform testing prior to elections?
16. Were Ohio's machines tested before the 2006 elections?
17. If so, what were the documented problems in 2006?
18. Also, will they be tested by the BOEs again prior to the 2007 and 2008 elections?
19. Is this test duplicative of tests already administered by the Secretary of State? If the testing you propose is duplicative, perhaps the money could be used to improve poll worker training to help address the human errors in programming that have been raised.
20. Questions have also been raised about the process following the testing. What is the role of the Board of Voting Machine Examiners? Do you make the recommendation to decertify machines? Do you have final approval over certification?
21. Does the decertification process in Ohio specify how many days before an election machines must be certified or decertified?
22. Isn't statutory authority already given to your office and the BOEs to replace machines that are decertified? What is the current law in this regard?
23. You stated that any delays by the Controlling Board this week may increase costs for these studies, but yet, if this request is approved at the next meeting, wouldn't there be more time to perform these tests than originally contemplated in the RFP you issued? The RFP, which was issued in June, says September 20th was the optimum due date for a final testing report to be delivered to you. For the RFP to be issued in June with vendor responses due July 9th, the earliest you could have had the item go to the Controlling Board (even as an emergency add-on) would have been the July 16th meeting. If it would have been approved at the July 16th meeting, the companies and consultants would have had two months


and four days to complete their work and report to you by September 20th, the optimum date for completion. If your request is approved at the next Controlling Board meeting (September 24th) and the companies have until November 30<sup>th</sup> to complete their work, they have two months and six days. How could the companies justify increasing costs when they would have two additional days to perform tests and report to you? We inquired about this the day of Controlling Board and have not yet received a response.

This is a summary of questions and concerns that have been raised. We would like to meet with you Tuesday or Wednesday next week to talk about these issues. We would like to receive information prior to our meeting so that our meeting is as productive as possible. Our staff will contact your legislative counsel in the next few days to schedule a time for our meeting.

Sincerely,



John A. Carey  
State Senator  
17<sup>th</sup> Senate District



Steve Stivers  
State Senator  
16<sup>th</sup> Senate District