

FILED

2022 NOV 28 PM 4:00

AMY J. HURLEY
CLERK OF SUPERIOR COURT
BY _____
DEPUTY

Roy Herrera (032907)
roy@ha-firm.com
Daniel A. Arellano (032304)
daniel@ha-firm.com
Jillian L. Andrews (034611)
jillian@ha-firm.com
Jane W. Ahern (034865)
jane@ha-firm.com
Austin T. Marshall (036582)
austin@ha-firm.com
HERRERA ARELLANO LLP
1001 North Central Avenue, Suite 404
Phoenix, AZ 85004
Telephone: (602) 567-4820

Aria C. Branch* (DC Bar #1014541)
abbranch@elias.law
Lalitha D. Madduri* (DC Bar #1659412)
lmadduri@elias.law
Christina Ford* (DC Bar #1655542)
cford@elias.law
Mollie DiBrell* (DC Bar #90002189)
mdibrell@elias.law
Daniel Cohen* (DC Bar #90001911)
dcohen@elias.law
ELIAS LAW GROUP LLP
10 G St. NE, Suite 600
Washington, D.C. 20002
Telephone: (202) 968-4490
Facsimile: (202) 968-4498

* *Pro Hac Vice* Motion forthcoming

*Attorneys for Plaintiffs
Arizona Alliance for Retired Americans,
Inc. and Stephani Stephenson*

IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF COCHISE

ARIZONA ALLIANCE OF RETIRED
AMERICANS, INC., and STEPHANI
STEPHENSON,

Plaintiffs,

No. **CV 202200552**

**VERIFIED SPECIAL ACTION
COMPLAINT**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

v.

TOM CROSBY, ANN ENGLISH, and
PEGGY JUDD, in their official capacities as
the Cochise County Board of Supervisors,

Defendants.

Hon. _____

RETRIEVED FROM DEMOCRACYDOCKET.COM

1 Pursuant to Rule 4 of the Arizona Rules of Procedure for Special Actions, Plaintiffs
2 Arizona Alliance of Retired Americans, Inc. (the "Alliance"), and Stephani Stephenson, by
3 and through their undersigned counsel, allege as follows:

4 **SUMMARY OF THE CASE**

5 1. This action is the latest chapter in the Cochise County Board of Supervisors
6 (the "Board")'s long, baseless effort to call into question the results of the 2022 general
7 election and evade Arizona law.

8 2. Today, November 28, 2022, on the last day for counties to canvass election
9 results, the Board refused to do so based on nothing more than vague and unsubstantiated
10 allegations that the county's electronic voting machines could not be trusted.

11 3. The Board does not have discretion to refuse to canvass the results of the 2022
12 general election. Canvassing election results by a date certain is the Board's mandatory
13 legal duty under Arizona law. *See* A.R.S. § 16-642. As the Arizona Supreme Court has
14 previously explained, "if the board neglects or refuses to perform its plain duty [to canvass
15 the election], mandamus would issue to compel it to do so." *Hunt v. Campbell*, 19 Ariz.
16 254, 278-79 (1917) (cleaned up). This is for good reason: the timely canvassing of election
17 results is essential to ensure the accuracy and finality of Arizona's statewide elections, many
18 of which will be decided by narrow margins and some of which are subject to automatic
19 recounts.

20 4. The Board's inaction thus threatens to harm not only Cochise County voters,
21 whose votes may be excluded from the statewide returns if the Board does not canvass the
22 county's election results, but every voter in Arizona.

23 5. Plaintiffs the Alliance, on its own behalf and on behalf of its members who are
24 Arizona residents and voters, and Cochise County voter Stephani Stephenson, have a
25 significant interest in ensuring that the Board performs its non-discretionary legal duties in
26 compliance with state election law to canvass election results as required by Arizona law.
27 If the Board is allowed to refuse to canvass the election, Ms. Stephenson and the Alliance's
28 Cochise County members will be disenfranchised.

1 6. The Court should therefore issue a writ of mandamus and order Defendants to
2 immediately canvass Cochise County's election results no later than December 1, 2022.

3 **JURISDICTION AND VENUE**

4 7. This Court has jurisdiction under Article 6, § 14 of the Arizona Constitution,
5 A.R.S. §§ 12-123, 12-2021, and Rule 4(a) of the Arizona Rules of Procedure for Special
6 Actions.

7 8. Venue in Cochise County is proper under A.R.S. § 12-401(16) and Rule 4(b)
8 of the Arizona Rules of Procedure for Special Actions because all Defendants hold office
9 in Cochise County.

10 **PARTIES**

11 9. Plaintiff Arizona Alliance for Retired Americans, Inc. is a nonprofit
12 corporation organized under section 501(c)(4) of the Internal Revenue Code. The Alliance's
13 membership includes approximately 50,000 retirees from public and private sector unions,
14 community organizations, and individual activists in every county in Arizona, including
15 over 1,200 members in Cochise County. The Alliance is a chartered affiliate of the Alliance
16 for Retired Americans, which is one of the country's leading grassroots senior organizations
17 and engages in important political efforts to protect and preserve programs vital to the health
18 and economic security of older Americans.

19 10. The Alliance's mission is to ensure social and economic justice and to protect
20 the civil rights of retirees after a lifetime of work. The Alliance accomplishes this mission
21 by ensuring that its members have access to the franchise and can meaningfully participate
22 in Arizona's elections.

23 11. The Alliance brings this action on behalf of its members, 1,200 of whom reside
24 in Cochise County, and many of whom voted in the 2022 general election. Defendants'
25 refusal to canvass Cochise's election results deprives the Alliance's members of their ability
26 to have their ballots counted and canvassed in accordance with Arizona law. As Arizona
27 citizens and voters, the Alliance's members have a significant interest in ensuring
28 Defendants perform their mandatory election duties in full compliance with the state's

1 election laws. If the Board fails to canvass the election, the Alliance's Cochise County
2 members will be disenfranchised.

3 12. Plaintiff Stephani Stephenson is a qualified and registered voter in Cochise
4 County, Arizona. Ms. Stephenson cast her ballot in Cochise County in the 2022 general
5 election, which was received and accepted for counting. As an Arizona citizen and voter,
6 Ms. Stephenson has a significant interest in ensuring Defendants perform their mandatory
7 election duties in full compliance with the state's election laws. If the Board fails to canvass
8 the election, Ms. Stephenson will be disenfranchised.

9 13. Defendants Tom Crosby, Ann English, and Peggy Judd comprise the Cochise
10 County Board of Supervisors. Each supervisor is named in their official capacities only. As
11 members of the Board, they are responsible for conducting elections within Cochise
12 County, including canvassing the county's election results. *See* A.R.S. §§ 11-251(3), 16-
13 621, -622(A), -642, -645, -449.

14 GENERAL ALLEGATIONS

15 **A. The Board's refusal to canvass election results is the Board's latest effort to** 16 **violate Arizona law this election cycle.**

17 14. In recent years, and particularly after the 2020 presidential election, certain
18 individuals and organizations in Arizona and elsewhere have proclaimed, without any
19 evidence, that electronic voting systems are unreliable. But as the Secretary of State has
20 explained, "Arizona has rigorous standards in place to ensure that electronic voting systems
21 used in our elections are secure and accurate, including federal and state certification
22 requirements [and] pre- and post-election logic and accuracy testing[.]" Ex. A at 1. The
23 Secretary of State has even provided to the Board the certification and accreditation
24 information for the machines used in Cochise County during the 2022 general election. Ex.

25 B.

26 15. Nevertheless, some voters in Cochise County continue to challenge the
27 County's use of electronic voting machines and have advocated that the County should not
28 rely on them—despite offering no credible evidence of their unreliability.

1 16. In October 2022, this repeated questioning of the reliability of voting machines
2 culminated in the Board's decision to authorize an unlawful full hand count audit of ballots
3 cast in the 2022 general election, against the legal advice of the Secretary of State and the
4 Cochise County Attorney.

5 17. On October 31, 2022, the Alliance and Cochise County voter Stephani
6 Stephenson, also Plaintiffs to this litigation, filed suit to ensure that Cochise County would
7 conduct a hand count audit in compliance with Arizona law, which authorizes only a limited
8 hand count audit. *See* A.R.S. § 16-601. Defendants Crosby, Judd, and English were also
9 defendants in that suit.

10 18. After conducting a full day evidentiary hearing, the Honorable Casey
11 McGinley granted Plaintiffs' requested relief and ordered the defendants to conduct a hand
12 count audit in strict compliance with Arizona law. *All. For Ret. Ams. v. Crosby*, No.
13 CV202200518, November 7, 2022 Order (Ariz. Sup. 2022). The Court found that a 100%
14 hand recount is not allowed under Arizona law and explained that detailed statutory
15 procedures require that ballots be randomly selected for the audit and authorize audits of
16 escalating increments of ballots only if the difference between the hand count and the
17 machine tabulation meets or exceeds a certain margin of error. The Court enjoined
18 defendants from attempting to conduct a hand count audit of "100%" of ballots cast in the
19 2022 general election. While some defendants to that litigation, including the Board,
20 appealed the Court's order, the Arizona Court of Appeals denied their motion for an
21 expedited appeal, and the Arizona Supreme Court denied their motion to transfer the action.

22 19. After the Court's order, Cochise County Elections Director Marra proceeded
23 to conduct the County's hand count audit in strict compliance with Arizona law. That
24 limited hand count audit found no discrepancy between the electronic voting machine
25 results and the result of the limited hand count. *See* Ex. C.

26 20. Despite the Court's decision, which precluded the Board from conducting a
27 hand count of all ballots cast, the Board continued with unlawful plans to conduct a
28 significantly expanded hand count audit. On November 10, three days after the Court issued

1 its order, the Board noticed a board meeting to vote to conduct a hand count audit of 99.9%
2 of ballots cast in Cochise County. *See* Ex. D.

3 21. After plaintiffs in the hand count audit litigation threatened to move to hold
4 the Board in contempt if they proceeded to authorize a 99.9% hand count, the Board
5 cancelled the meeting.

6 22. Shortly thereafter, the Board filed its own suit against Elections Director
7 Marra, seeking to force her to conduct the expanded hand count audit that the Court had
8 previously ordered her not to conduct. Just two days after filing, the Board withdrew its
9 Petition for Special Action.

10 23. This lawsuit follows from yet another lawless action by the Board.

11 **B. On November 28, the Board refused to certify the County's election results**
12 **for the 2022 general election.**

13 24. On November 18, ten days before the final deadline to do so, the Board met,
14 as required by law, to "[a]ccept the elections results certified and submitted by the Cochise
15 County Elections Department as the official canvass for the General Election held on
16 November 8, 2022." Ex. E. The Board's own meeting notice acknowledged that the Board
17 would violate Arizona law if it failed to canvass the election results: "Cochise County will
18 not be in compliance with State Statute for certifying election results." Ex. I.

19 25. At that November 18 meeting, the Board heard extensive comments from the
20 public. While many members of the public urged the Board to timely canvass the election
21 results, others spoke out against canvassing the results, describing their mistrust in the
22 voting machines. At the end of public comment, the Secretary's State Election Director,
23 Kori Lorick, assured the Board that Cochise's electronic voting machines had been and
24 remained "properly certified under both federal and state laws and requirements."¹

25 26. Ultimately, on November 18, a majority of the Board voted along party lines
26 to delay canvassing the election results until "such evidence about lawful certification by

27 _____
28 ¹ Video Recording of Nov. 18, 2022, Special Meeting at 1:57:30-1:57:46, available at
<https://www.youtube.com/watch?v=RvAxd054xoM>.

1 an accredited laboratory is presented and confirmed by persons with expertise in that field.”²
2 The Board did not cite any other reason for the delay. The Board then rescheduled its
3 canvass meeting for November 28, the last date for counties to canvass results. Ex. G.

4 27. On November 21, the State Election Director, Ms. Lorick, sent a letter to the
5 Board, explaining the Board’s mandatory duty to canvass election results by November 28.
6 Ex. B. The letter made clear that the Secretary would take legal action if the Board failed to
7 perform their duty under law. *Id.*

8 28. The following day, Plaintiffs to this litigation sent a similar letter to the Board.
9 Ex. F. They made clear that there was no legitimate basis for delaying the canvass, and
10 advised that they would take legal action if the Board failed to canvass the election results
11 on November 28. *Id.*

12 29. On November 28, the last day to canvass, the Board failed to canvass the
13 election. Again, the Board’s own meeting notice described the illegality of their refusal to
14 canvass the election results: “Cochise County will not be in compliance with State Statute
15 for certifying election results.” Ex. H. The Board tabled the decision to canvass until
16 December 2, after the statutory deadline to complete the canvass.

17 **C. Defendants’ refusal to canvass election results violates Arizona law.**

18 30. Defendants’ refusal to canvass election results violates Arizona law because
19 the Board has a mandatory, non-discretionary legal duty to canvass and certify the election
20 under Arizona law.

21 31. A.R.S. § 16-642(A) requires each county board of supervisors to meet and
22 canvass the election: a county board “***shall meet and canvass*** the election not less than six
23 days nor more than twenty days following the election.” (Emphasis added.) For the
24 November 8, 2022, General Election, county boards of supervisors therefore must complete
25 their canvass by November 28, 2022. *Id.*

26
27
28 ² *Id.* at 2:15:28-2:15:51.

1 32. The canvass is a purely ministerial act that follows tabulation of votes and
2 various audits that ensure the accuracy and integrity of the election. *See, e.g.*, A.R.S. § 16-
3 602 (requiring limited hand count audit of ballots); *see also* Elections Procedures Manual
4 (“EPM”) at 239 (“A canvass . . . should not be conducted until all necessary audits have
5 been completed to verify the accuracy and integrity of election results.”).³ The purpose of
6 the county canvass is to officially certify the election. *See* EPM at 239.

7 33. Once the canvass is complete, county boards of supervisors “must transmit
8 their canvasses to the Secretary of State,” *id.* at 243, who is required to conduct the statewide
9 canvass on December 5, 2022. A.R.S. § 16-648(a). If the Secretary has not received the
10 official canvass from any county by that date, the canvass shall be postponed day-to-day
11 until canvasses from all counties are received, but only until 30 days after the election,
12 which is December 8, 2022. *Id.* § 16-648(c).

13 34. If a county has not certified its results by December 8, 2022, its votes may not
14 be included in the statewide canvass. *See id.* § 16-648; EPM at 243 (“The Secretary of State
15 has a non-discretionary duty to canvass the returns as provided by the counties and has no
16 authority to change vote totals or reject the election results.”); Ex. D at 2. If a county fails
17 to conduct the statutorily mandated canvass, there is a serious risk that the votes of the
18 offending county’s citizens will not be included in the State’s canvass, disenfranchising that
19 county’s residents.

20 35. After the Secretary of State completes her canvass, she must declare the person
21 receiving the highest number of votes cast for each office elected and promptly deliver a
22 signed, sealed certificate of election to each prevailing candidate. A.R.S. § 16-650. After
23

24 ³ The Secretary of State promulgated the operative Elections Procedures Manual (“EPM”) in 2019. The manual has the force of law. *See* A.R.S. § 16-452; *Ariz. Pub. Integrity All. v. Fontes*, 250 Ariz. 58 63 ¶ 16 (2020) (“Once adopted, the EPM has the force of law; any violation of an EPM rule is punishable as a class two misdemeanor.”). The EPM is available at:
25 https://azsos.gov/sites/default/files/2019_ELECTIONS_PROCEDURES_MANUAL_APPROVED.pdf.
26
27
28

1 the statewide canvass, automatic recounts and election contests take place. *See, e.g., id.*
2 § 16-672.

3 36. The Board's duty to canvass Cochise County's election results is ministerial
4 and mandatory, not discretionary: the Board "shall" canvass the county's election results,
5 A.R.S. § 16-642(A); *see* EPM 239-40 (Board "***must canvass*** the election by the required
6 deadline," or 20 days after the general election); *id.* at 243 ("All counties ***must transmit***
7 ***their canvasses*** to the Secretary of State.") (Emphases added). As stated in the EPM: "The
8 Board of Supervisors has a non-discretionary duty to canvass the returns as provided by the
9 County Recorder or other officer in charge of elections and ***has no authority to change vote***
10 ***totals or reject the election results.***" *Id.* at 240 (emphasis added).

11 37. The Board may only delay the canvass under one circumstance, which is "if
12 the results from any precinct are missing." *Id.* (citing A.R.S. § 16-642(C)). That provision
13 is inapplicable here because the Board was provided with the complete election results at
14 its November 18, 2022, meeting. Thus, there is no lawful basis for the Board to refuse to
15 complete the canvass.

16 38. Nonetheless, today, Defendants voted against canvassing the 2022 general
17 election results until at least December 2, 2022, and have thus made clear that they will not
18 comply with their non-discretionary, mandatory legal duty to complete the canvass by the
19 statutory deadline to do so. In doing so, Defendants are violating Arizona law.

20 COUNT I

21 **Writ of Mandamus (A.R.S. § 12-2021) – Violation of A.R.S. § 16-642 and the EPM**

22 39. Paragraphs 1–38 are incorporated by reference herein.

23 40. Courts may issue a writ of mandamus to any "person [or] corporation . . . on
24 the verified complaint of the party beneficially interested, to compel, when there is not a
25 plain, adequate and speedy remedy at law, performance of an act which the law specially
26 imposes as a duty resulting from an office" A.R.S. § 12-2021. Accordingly, under
27 A.R.S. § 12-2021, members of the public who are "beneficially interested" in an action can
28 sue to compel officials to perform their non-discretionary duties. *Ariz. Pub. Integrity All.,*

1 250 Ariz. at 62 ¶ 11. “The phrase ‘party beneficially interested’ is ‘applied liberally to
2 promote the ends of justice.’” *Id.* (quoting *Barry v. Phx. Union High Sch.*, 67 Ariz. 384, 387
3 (1948)).

4 41. As Arizona citizens and voters, the Alliance’s members and Plaintiff
5 Stephenson have a beneficial interest in compelling elections officials to comply with their
6 non-discretionary duty to comply with Arizona election law. *See id.* at 63 ¶ 12. Indeed,
7 should the County ultimately fail to complete the canvass, Ms. Stephenson and the
8 Alliance’s members who reside in Cochise County will have their votes discarded and
9 excluded from the statewide canvass.

10 42. In such actions, courts “may direct, order, or prohibit specified action by the
11 defendant” as judgment. Arizona Rules of Procedure for Special Actions, Rule 6.

12 43. A.R.S. § 16-642 imposes a non-discretionary legal duty on Defendants to
13 canvass and certify the county’s election results as prescribed by the section and the EPM.
14 *See Ariz. Pub. Integrity All.*, 250 Ariz. at 63 ¶ 16 (“[The EPM] has the force of law.”).

15 44. Defendants have only those powers “expressly conferred by statute” and “may
16 exercise no powers except those specifically granted by statute and in the manner fixed by
17 statute.” *Hancock v. McCarroll*, 188 Ariz. 492, 498 (App. 1996) (quotation omitted); *see*
18 *Ariz. Pub. Integrity All.*, 250 Ariz. at 62 ¶ 14 (Defendants’ powers “[are] limited to those
19 powers expressly or impliedly delegated to [them] by the state constitution or statutes.”);
20 *see also* Ariz. Const. art. 12, § 4 (stating that “[t]he duties, powers, and qualifications” of
21 county officers “shall be as prescribed by law”).

22 45. By failing to certify Cochise County’s 2022 general election results by the
23 statutory deadline, the Board failed to complete its non-discretionary, mandatory legal
24 duties. Faced with a similar issue, the Arizona Supreme Court has previously explained that
25 where election returns have been received “if the board neglects or refuses to perform its
26 plain duty [to canvass the election], mandamus would issue to compel it to do so.” *Hunt v.*
27 *Campbell*, 19 Ariz. 254, 278-79 (1917) (cleaned up).

46. “Election laws play an important role in protecting the integrity of the electoral process,” and “public officials should, by their words and actions, seek to preserve and protect those laws.” *Ariz. Pub. Integrity All.*, 250 Ariz. at 61 ¶ 4 (citations omitted). Defendants cannot simply ignore Arizona election law “based on their own perceptions of what they think [the law] *should* be.” *Id.*

47. The Court should therefore order Defendants to immediately canvass and certify Cochise County's 2022 general election results in accordance with A.R.S. § 16-462 and the EPM by no later than December 1, 2022.

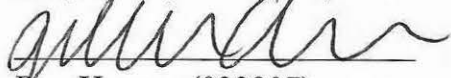
DEMAND FOR RELIEF

WHEREFORE, Plaintiffs demand relief in the following forms:

- A. A writ of mandamus compelling Defendants to canvass and certify Cochise County's 2022 election results in accordance with statutory procedures and the EPM by no later than December 1, 2022;
- B. An award of fees, costs, and other expenses under A.R.S. § 12-2030; and
- C. Such other and further relief as the Court, in its inherent discretion, deems appropriate.

1 Dated: November 28, 2022

Respectfully submitted,



Roy Herrera (032907)

roy@ha-firm.com

Daniel A. Arellano (032304)

daniel@ha-firm.com

Jillian L. Andrews (034611)

jillian@ha-firm.com

Jane W. Ahern (034865)

jane@ha-firm.com

Austin T. Marshall (036582)

austin@ha-firm.com

HERRERA ARELLANO LLP

1001 North Central Avenue, Suite 404

Phoenix, AZ 85004

Telephone: (602) 567-4820

Aria C. Branch* (DC Bar #1014541)

abbranch@elias.law

Lalitha D. Madduri* (DC Bar #1659412)

lmadduri@elias.law

Christina Ford* (DC Bar #1655542)

cford@elias.law

Mollie DiBrell* (DC Bar #90002189)

mdibrell@elias.law

Daniel Cohen* (DC Bar #90001911)

dcohen@elias.law

ELIAS LAW GROUP LLP

10 G St. NE, Suite 600

Washington, D.C. 20002

Telephone: (202) 968-4490

Facsimile: (202) 968-4498

Attorneys for Plaintiffs

*Arizona Alliance for Retired Americans,
Inc. and Stephani Stephenson*

* *Pro Hac Vice* Motion forthcoming

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

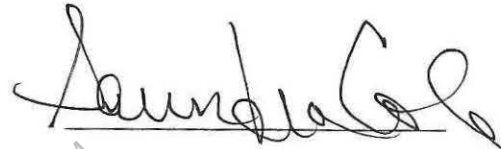
VERIFICATION

I, Sandra Cole, make the following verification under penalty of perjury:

I have read the foregoing complaint and verify that the facts stated in it are true to the best of my knowledge and belief, except as to those matters alleged on information and belief, and as to them, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on ~~October~~ 28, 2022.
November



Sandra Cole

President, Arizona Alliance for
Retired Americans, Inc.

RETRIEVED FROM DEMOCRACYDOCKET.COM

EXHIBIT A

RETRIEVED FROM DEMOCRACYDOCKET.COM



KATIE HOBBS
SECRETARY OF STATE

October 19, 2022

Via Email

Cochise County Board of Supervisors
Tom Crosby, tcrosby@cochise.az.gov
Ann English, aenglish@cochise.az.gov
Peggy Judd, pjudd@cochise.az.gov

Re: 2022 General Election Tabulation

Dear Cochise County Board of Supervisors,

We understand that the Cochise County Board of Supervisors will vote next week on whether to conduct a hand count of all votes cast, despite both the Cochise County Attorney's and Legislative Council's determination that doing so would be unlawful. The Secretary of State agrees with the County Attorney and Legislative Council and urges the Board to abandon this misguided effort.

As you know, Arizona has rigorous standards in place to ensure that electronic voting systems used in our elections are secure and accurate, including federal and state certification requirements, pre- and post-election logic and accuracy testing, and post-election limited hand count audits. See EPM, Ch. 4, A.R.S. §§ 16-442, -449, -602. The use of electronic tabulation combined with these and other security measures allows counties to fulfill their statutory duties in a timely manner while ensuring the accuracy and integrity of our elections. Indeed, as recently explained by the General Counsel of the Arizona Legislative Council, Arizona law only contemplates manual counting of ballots where "it becomes impracticable to count . . . ballots with tabulating equipment." See A.R.S. § 16-621(C).

And this is for good reason: a full hand count raises numerous concerns. Notably, hand counting is necessarily time intensive and prone to human error. Any election director in Arizona—the official responsible for overseeing tabulation of ballots—can attest that it's impossible to complete an accurate hand count of an election with dozens of races on the ballot in time to comply with applicable statutory deadlines, including the county canvass deadline, A.R.S. § 16-642(A) (requiring counties to canvass between six and twenty days after an election). Additionally, transitioning to a full hand count this close to the election raises operational and security concerns. Election procedures are generally developed

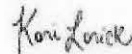
through careful consideration and with sufficient time to prepare for an upcoming election. In fact, Cochise County has already filed its election program and emergency contingency plan for the General Election with the Secretary of State, confirming its usage of electronic equipment for this election. See A.R.S. § 16-445(A). Early voting for the 2022 General Election began over a week ago, and counties are already permitted by law to begin processing and tabulating ballots. Drastically changing procedures now—mere weeks before Election Day—creates significant risk of administrative error and has the potential to cause voter confusion and mistrust in our elections.

Even if, as indicated at the Board's October 11, 2022 work session, the Board intends to tabulate votes electronically and conduct a full hand count only to audit those machine-tabulated results, the Board has no authority to do so. County boards of supervisors have only those powers "expressly conferred by statute," and the Board "may exercise no powers except those specifically granted by statute and in the manner fixed by statute." *Hancock v. McCarroll*, 188 Ariz. 492, 498 (App. 1996) (quotations omitted). A.R.S. § 11-251(3) gives the Board the power to canvass election returns. It does not grant the power to unilaterally perform a full hand count audit of all votes. While A.R.S. § 16-602 and the Elections Procedures Manual lay out procedures for a limited post-election hand count audit, nothing in Arizona law authorizes the Board to conduct a full hand count outside of those procedures. Similarly, Arizona law authorizes recounts only when the canvassed results fall within the statutorily designated margin. A.R.S. § 16-661. And when an automatic recount is triggered, it must be done by electronic tabulation. A.R.S. § 16-664. The Board would therefore be exceeding its authority under Arizona law if it conducts a full hand count under the guise of either a hand count audit or a recount. The Board cannot simply make up its own extra-statutory process.

If the Board votes to proceed with a full hand count—putting at risk the accuracy and integrity of our elections—the Secretary will take all available legal action to ensure that Cochise County conducts the 2022 General Election in compliance with Arizona law. If that occurs, we note that Arizona law provides for mandatory fee shifting under these circumstances. A.R.S. § 12-348.01. We are all stewards of taxpayer dollars, and taxpayers should not bear the burden of the Board's contemplated unlawful action. We sincerely hope such action is unnecessary and that the Board will follow the advice of its own attorney, protect the integrity of our elections, and ensure continued compliance with Arizona law.

Please let me know if you need additional information.

Sincerely,



Kori Lorick
State Elections Director
Arizona Secretary of State Katie Hobbs
Klorick@azsos.gov

EXHIBIT B

RETRIEVED FROM DEMOCRACYDOCKET.COM



KATIE HOBBS
SECRETARY OF STATE

November 21, 2022

Via Email

Cochise County Board of Supervisors
Tom Crosby, tcrosby@cochise.az.gov
Ann English, aenglish@cochise.az.gov
Peggy Judd, pjudd@cochise.az.gov

Re: 2022 General Election Canvass

Dear Cochise County Board of Supervisors,

The Board of Supervisors has a non-discretionary duty under Arizona law to canvass the County's 2022 General Election and transmit the canvass to the Secretary of State by November 28, 2022. If you fail to do so, the Secretary will use all available legal remedies to compel compliance with Arizona law and protect Cochise County voters' right to have their votes counted.

At your public meeting on November 18, 2022, you voted to delay certification of the County's 2022 General Election canvass and requested more information about false claims concerning the County's election equipment. These claims are derived from baseless conspiracies about Arizona's equipment certification process. Cochise County's election equipment was properly certified and remains in compliance with state and federal requirements. Cochise County uses Election Systems & Software (ES&S) Voting System (EVS) version 6.0.4.0 (ESSEVS6040), which was certified by the U.S. Election Assistance Commission (EAC) on May 3, 2019. SLI Compliance, the federal lab that conducted the testing for ESSEVS6040, was an accredited lab at all times during the testing process. Additionally, pursuant to Arizona's certification requirements, the ESSEVS6040 was reviewed and tested by the state's Equipment Certification Advisory Committee then certified by the state on November 5, 2019. Please see the attachments that support these facts.

We also requested that the EAC, the federal agency that accredits the voting system testing laboratories, provide confirmation specifically in response to the concerns raised at the Board's meeting. The EAC unequivocally confirmed in the attached letter that SLI Compliance, the lab that tested the election equipment that Cochise uses, was properly accredited throughout the certification process.

A.R.S. § 16-642 requires each county board of supervisors to meet and canvass the election no later than 20 days after the election. For the November 8, 2022 General Election, boards of supervisors therefore must canvass no later than November 28. The board of supervisors then must transmit the certified canvass to the Secretary, who is required to conduct the statewide canvass on December 5, 2022. A.R.S. § 16-648(A). These strict statutory deadlines make clear that the duty to canvass is not discretionary. In fact, the 2019 Elections Procedures Manual ("EPM") explicitly provides that the Board "has a non-discretionary duty to canvass the returns as provided by the County Recorder or other officer in charge of elections and has no authority to change vote totals or reject the election results." 2019 EPM at 240. Because the Board has no authority to change or reject the results, the canvass is a purely ministerial act.

Bad faith attempts to derail Arizona's democracy will not go unaddressed. If the Board refuses to certify the canvass by November 28, the Secretary will take all available legal action, including filing a special action to compel the Board's compliance.¹ If the Board still has not certified by the state canvass deadline, the state canvass will proceed regardless, as is required under Arizona's law, and your refusal to certify will only serve to disenfranchise Cochise County voters. Please let me know if you need any additional information prior to your November 28 meeting to certify Cochise's election results.

Sincerely,



Kori Lorick
State Elections Director
Arizona Secretary of State Katie Hobbs
klorick@azsos.gov

cc

Tim Mattix, Clerk of the Board
tmattix@cochise.az.gov

Christine Roberts, Chief Civil County Attorney
croberts@cochise.az.gov

Richard Karwaczka, County Administrator
rkarwaczka@cochise.az.gov

Sharon Gilman, Deputy County Administrator,

¹ An official canvass may only be postponed past the statutory deadline if returns from a polling place are missing. A.R.S. § 16-642(C). Because this is not the case for Cochise County's 2022 results, the Board must comply with the 20-day deadline specified in A.R.S. § 16-642(A).

sgilman@cochise.az.gov

Lisa Marra, Elections Director
lmarra@cochise.az.gov

David Stevens, County Recorder
dstevens@cochise.az.gov

RETRIEVED FROM DEMOCRACYDOCKET.COM



U.S. ELECTION ASSISTANCE COMMISSION
633 3rd St. NW, Suite 200
Washington, DC 20001

November 21, 2022

Arizona Secretary of State
1700 W Washington St Fl 7
Phoenix AZ 85007

Dear Secretary Hobbs,

The Election Systems & Software (ES&S) Voting System (EVS) version 6.0.4.0 (ESSEVS6040) was certified by the U.S. Election Assistance Commission (EAC) on May 3, 2019.¹ Details and documentation regarding the testing and certification of ESSEVS6040 are publicly available on the EAC's website at <https://www.eac.gov/voting-equipment/evs-6040>.

ES&S's application for certification of EVS 6.0.4.0 was approved for testing on October 15, 2018. In accordance with the EAC's Testing and Certification Manual,² the October 15, 2018, Application Approval Letter³ designated SLI Compliance, an EAC-accredited voting system testing laboratory (VSTL), as the lead VSTL for this testing engagement.

During the testing of the ESSEVS6040, from application approval on October 15, 2018, to certification on May 3, 2019, SLI Laboratory complied with the EAC's Voting System Testing Laboratory Manual⁴ and maintained its accreditation, as shown by the dates on its Certificate of Accreditation.⁵

For additional information on the EAC Testing and Certification Program, please see the How a Voting System Becomes Certified: Overview of the EAC Certification Process document located in the EAC FOIA Reading Room. The Declaration of Mark A. Robbins document located in the EAC FOIA Reading Room also discusses in greater detail the EAC Testing and Certification Program.

Sincerely,

Mark A. Robbins, Interim Executive Director
U.S. Election Assistance Commission

¹ https://www.eac.gov/sites/default/files/voting_system/files/EVS6040_Cert_Scope%28FINAL%29.pdf

² https://www.eac.gov/sites/default/files/eac_assets/1/28/Cert%20Manual%207%208%2015%20FINAL.pdf

³ https://www.eac.gov/sites/default/files/voting_system/files/Application.Approval.Letter3.pdf

⁴ https://www.eac.gov/sites/default/files/eac_assets/1/28/VSTLManual%207%208%2015%20FINAL.pdf

⁵ https://www.eac.gov/sites/default/files/voting_system_test_lab/files/SLI_Compliance_Certificate_of_Accreditation_011018.pdf



United States Election Assistance Commission

Certificate of Accreditation

SLI Compliance,
Division of Gaming Laboratories International, LLC
Wheat Ridge, Colorado

is recognized by the U.S. Election Assistance Commission for the testing of voting systems to the 2002 Voting Systems Standards, the Voluntary Voting Systems Guidelines versions 1.0 and 1.1 under the criteria set forth in the EAC Voting System Testing and Certification Program and Laboratory Accreditation Program. SLI Compliance is also recognized as having successfully completed assessments by the National Voluntary Laboratory Accreditation Program for conformance to the requirements of ISO/IEC 17025 and the criteria set forth in NIST Handbooks 150 and 150-22.

Effective Through

January 10, 2021

A handwritten signature in black ink, appearing to read "B. Newby", is written over a horizontal line.

Date: 1/10/18

Brian Newby,
Executive Director, U.S. Election Assistance Commission

EAC Lab Code: 0701



United States Election Assistance Commission

Certificate of Conformance

ES&S EVS 6.0.4.0



The voting system identified on this certificate has been evaluated at an accredited voting system testing laboratory for conformance to the *Voluntary Voting System Guidelines Version 1.0 (VVSG 1.0)*. Components evaluated for this certification are detailed in the attached Scope of Certification document. This certificate applies only to the specific version and release of the product in its evaluated configuration. The evaluation has been verified by the EAC in accordance with the provisions of the *EAC Voting System Testing and Certification Program Manual* and the conclusions of the testing laboratory in the test report are consistent with the evidence adduced. This certificate is not an endorsement of the product by any agency of the U.S. Government and no warranty of the product is either expressed or implied.

Product Name: EVS

Model or Version: 6.0.4.0

Name of VSTL: SLI Compliance

EAC Certification Number: ESSEVS6040

Date Issued: May 3, 2019

Executive Director

Scope of Certification Attached

Manufacturer: Election Systems & Software
System Name: EVS 6.0.4.0
Certificate: ESSEVS6040

Laboratory: SLI Compliance
Standard: VVSG 1.0 (2005)
Date: May 3, 2019



Scope of Certification

This document describes the scope of the validation and certification of the system defined above. Any use, configuration changes, revision changes, additions or subtractions from the described system are not included in this evaluation.

Significance of EAC Certification

An EAC certification is an official recognition that a voting system (in a specific configuration or configurations) has been tested to and has met an identified set of Federal voting system standards. An EAC certification is **not**:

- An endorsement of a Manufacturer, voting system, or any of the system's components.
- A Federal warranty of the voting system or any of its components.
- A determination that a voting system, when fielded will be operated in a manner that meets all HAVA requirements.
- A substitute for State or local certification and testing.
- A determination that the system is ready for use in an election.
- A determination that any particular component of a certified system is itself certified for use outside the certified configuration.

Representation of EAC Certification

Manufacturers may not represent or imply that a voting system is certified unless it has received a Certificate of Conformance for that system. Statements regarding EAC certification in brochures, on Web sites, on displays, and in advertising/sales literature must be made solely in reference to specific systems. Any action by a Manufacturer to suggest EAC endorsement of its product or organization is strictly prohibited and may result in a Manufacturer's suspension or other action pursuant to Federal civil and criminal law.

System Overview

The ES&S EVS 6.0.4.0 voting system is a modification of the ES&S EVS 6.0.2.0 voting system, certified on October 4, 2018, which contains changes in hardware, software, as well as an upgrade in the election management system's COTS operating system. The ES&S EVS 6.0.4.0 voting system is composed of software applications, central count location devices and polling place devices with accompanying firmware, and COTS hardware and software.

Electionware®

Electionware election management software is an end-to-end election management software application that provides election definition creation, ballot formation, equipment

configuration, result consolidation, adjudication and report creation. Electionware is composed of five software groups: Define, Design, Deliver, Results and Manage.

ExpressVote XL™

ExpressVote XL is a hybrid paper-based polling place voting device that provides a full-face touchscreen vote capture that incorporates the printing of the voter's selections as a cast vote record, and tabulation scanning into a single unit.

ExpressTouch®

ExpressTouch Electronic Universal Voting System (ExpressTouch) is a DRE voting system which supports electronic vote capture for all individuals at the polling place.

ExpressVote® Hardware 1.0

ExpressVote Universal Voting System Hardware 1.0 (ExpressVote HW1.0) is a hybrid paper-based polling place voting device that provides touch screen vote capture that incorporates the printing of the voter's selections as a cast vote record, to be scanned for tabulation in any one of the ES&S precinct or central scanners.

ExpressVote® Hardware 2.1

ExpressVote Universal Voting System Hardware 2.1 (ExpressVote HW2.1) is a hybrid paper-based polling place voting device that provides touch screen vote capture that incorporates the printing of the voter's selections as a cast vote record, and tabulation scanning into a single unit. ExpressVote HW2.1 is capable of operating in either marker or tabulator mode, depending on the configurable mode that is selected in Electionware.

There are two separate versions of the ExpressVote hardware version 2.1: 2.1.0.0 and version 2.1.2.0 (6.4 & 6.8). Please note that all future references to ExpressVote HW 2.1 as used throughout the document refers to both hardware versions.

DS200®

DS200 is a polling place paper-based voting system, specifically a digital scanner and tabulator that simultaneously scans the front and back of a paper ballot and/or vote summary card in any of four orientations for conversion of voter selection marks to electronic Cast Vote Records (CVR).

DS450®

DS450 is a central scanner and tabulator that simultaneously scans the front and back of a paper ballot and/or vote summary card in any of four orientations for conversion of voter selection marks to electronic Cast Vote Records (CVR).

DS850®

DS850 is a central scanner and tabulator that simultaneously scans the front and back of a paper ballot and/or vote summary card in any of four orientations for conversion of voter selection marks to electronic Cast Vote Records (CVR).

Event Log Service (ELS)

ELS monitors and logs users' interactions with the Election Management System. Events that happen when a connection to the database is not available are logged to the Windows Operating System log through the ELS.

Removable Media Service (RMS)

RMS is a utility that runs in the background of the Windows operating system. RMS reads specific information from any attached USB devices so that ES&S applications such as Electionware can use that information for media validation purposes.

Configurations

Within the scope of the ES&S EVS 6.0.4.0 voting system, three unique configurations are supported, in order to accommodate limitations of components with the ES&S EVS 6.0.4.0 voting system.

Configuration A

ES&S EVS 6.0.4.0: Test Configuration A is comprised of the entire suite of voting system products.

- Electionware
- ExpressVote Marker (HW 1.0)
- ExpressVote Marker/Tabulator (HW 2.1)
- ExpressVote XL
- ExpressTouch
- DS200
- DS450
- DS850

Configuration B

- Electionware
- ExpressVote Marker (HW 1.0)
- ExpressVote Marker/Tabulator (HW 2.1)
- DS200
- DS450
- DS850

Configuration C

- Electionware
- ExpressVote XL

Mark Definition

ES&S' declared level mark recognition for the DS200, DS450 and DS850 is a mark across the oval that is 0.02" long x 0.03" wide at any direction.

Tested Marking Devices

Bic Grip Roller Pen

Language Capability

EVS 6.0.4.0 supports English, Spanish, Chinese (Cantonese), Korean, Japanese, Hindi, Bengali, Vietnamese, Tagalog, Creole, Russian, and French. Configuration C also supports Punjabi and Gujarati.

Proprietary Components Included

This section provides information describing the components and revision level of the primary components included in this Certification.

System Component	Software or Firmware Version	Hardware Version	Model	Comments
Electionware	5.0.4.0			
ES&S Event Log Service	1.6.0.0			
Removable Media Service	1.5.1.0			
ExpressVote HW 1.0	1.5.2.0	1.0		Paper-based vote capture and selection device
ExpressVote Previewer (1.0)	1.5.2.0			
ExpressVote HW 2.1	2.4.5.0	2.1.0.0 2.1.2.0		Hybrid paper-based vote capture and selection device and precinct count tabulator
ExpressVote Previewer (2.1)	2.4.5.0			
DS200	2.17.4.0	1.2.1, 1.2.3, 1.3, 1.3.11		Precinct Count Tabulator
DS450	3.1.1.0	1.0		Central Count Scanner and Tabulator
DS850	3.1.1.0	1.0		Central Count Scanner and Tabulator
ExpressVote XL	1.0.3.0	1.0		Hybrid full-faced paper-based vote capture and selection device and precinct count tabulator
ExpressTouch	1.0.3.0	1.0		DRE
Delkin USB Flash Drive		USB Flash Drive	Bitlocker 32.2MB	BitLocker USB Flash Drive
ExpressVote Rolling Kiosk		1.0	98-00049	Portable Voting Booth
Voting Booth		N/A	98-00051	Stationary Voting Booth
Quad Express Cart		N/A	41404	Portable Voting Booth
MXB ExpressVote Voting Booth		N/A	95000	Sitting and Standing Voting Booth

System Component	Software or Firmware Version	Hardware Version	Model	Comments
ExpressVote Single Table		N/A	87033	Voting Table for One Unit
ExpressVote Double Table		N/A	87032	Voting Table for Two Units
ADA Table		N/A	87031	Voting Table for One Unit
DS200 Ballot Box		1.0, 1.1	98-00009	Collapsible Ballot Box
DS200 Ballot Box		1.2, 1.3, 1.4, 1.5	57521	Plastic ballot box
DS200 Tote Bin		1.0	00074	Tote Bin Ballot Box
DS450 Cart		N/A	3002	
DS850 Cart		N/A	6823	
Universal Voting Console		1.0	98-00077	Detachable ADA support peripheral
Tabletop Easel		N/A	14040	
ExpressTouch Voting Booth		N/A	98-00081	Stationary Voting Booth
SecureSetup	2.1.0.3			Proprietary Hardening Script

COTS Software

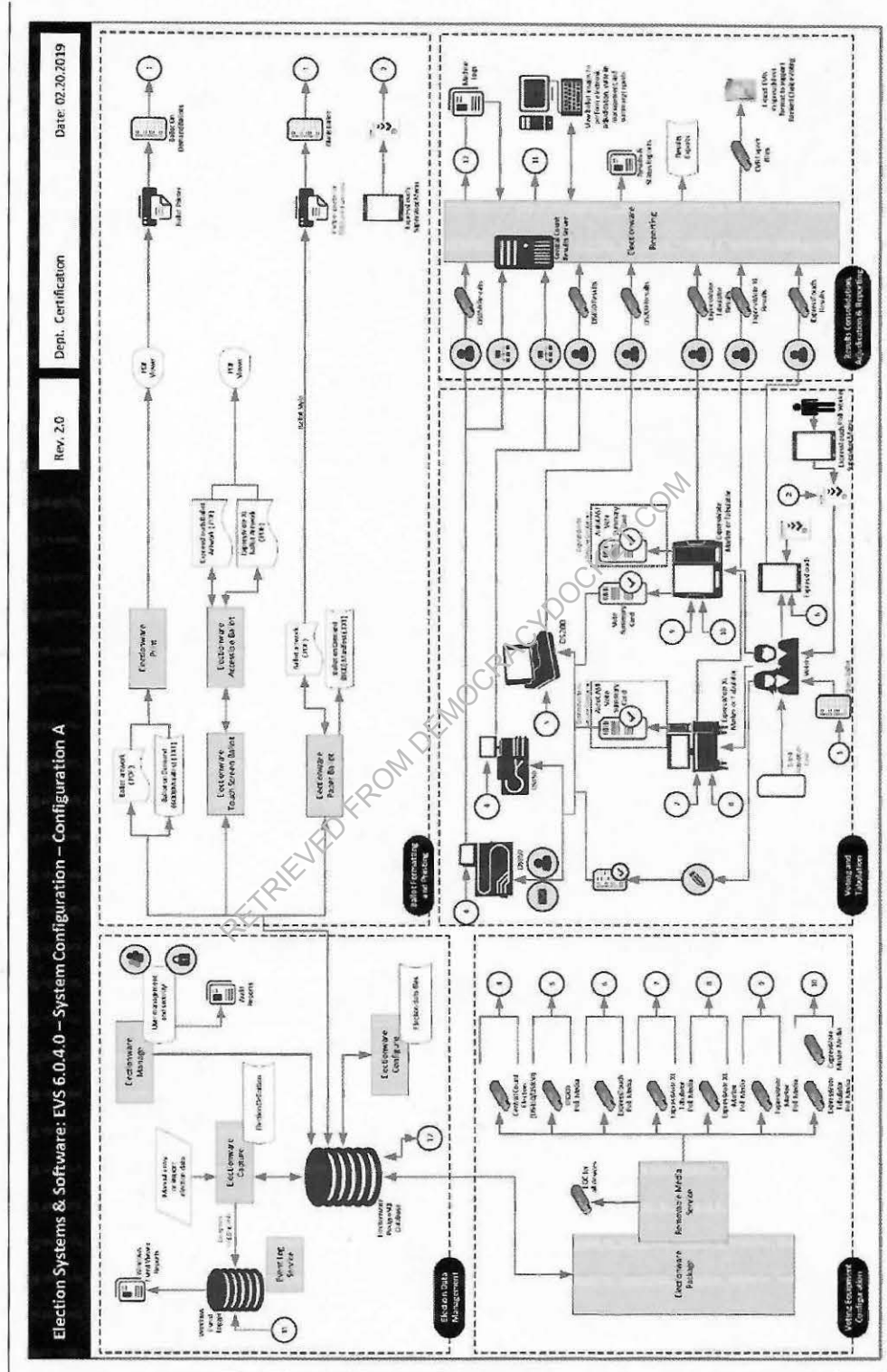
Manufacturer	Application	Version
Microsoft Corporation	Server 2008	R2 w/ SP1 (64-bit)
Microsoft Corporation	Windows 7 Professional	SP1 (64-bit)
Microsoft Corporation	Windows 7 Enterprise	SP1 (64-bit)
Microsoft Corporation	WSUS Microsoft Windows Offline Update Utility	11.5
Symantec	Endpoint Protection	14.2.0_MP1 (64-bit)
Symantec	Symantec Endpoint Protection Intelligent Updater (File-Based Protection)	20190122-001-core15sds5i64.exe
Symantec	Symantec Endpoint Protection Intelligent Updater (Network-Based Protection)	20190121-062-IPS_IU_SEP_14RU1.exe
Symantec	Symantec Endpoint Protection Intelligent Updater (Behavior-Based Protection)	20190115-001-SONAR_IU_SEP.exe
Gigabyte	WindowsImageTool	B17.1116.01
Cerberus	CerberusFTP Server – Enterprise	10.0.5 (64-bit)
Adobe	Acrobat	XI
Microsoft Corporation	Visual C++ Redistributable	en_visual_cpp_2015_redistributable_x86_8487157.exe (32-bit)
RSA Security	RSA BSAFE Crypto-C ME for Windows 32-bit	4.1
OpenSSL	OpenSSL	2.0.12
OpenSSL	OpenSSL	2.0.16
OpenSSL	OpenSSL	1.02d
OpenSSL	OpenSSL	1.02h
OpenSSL	OpenSSL	1.02k

COTS Hardware

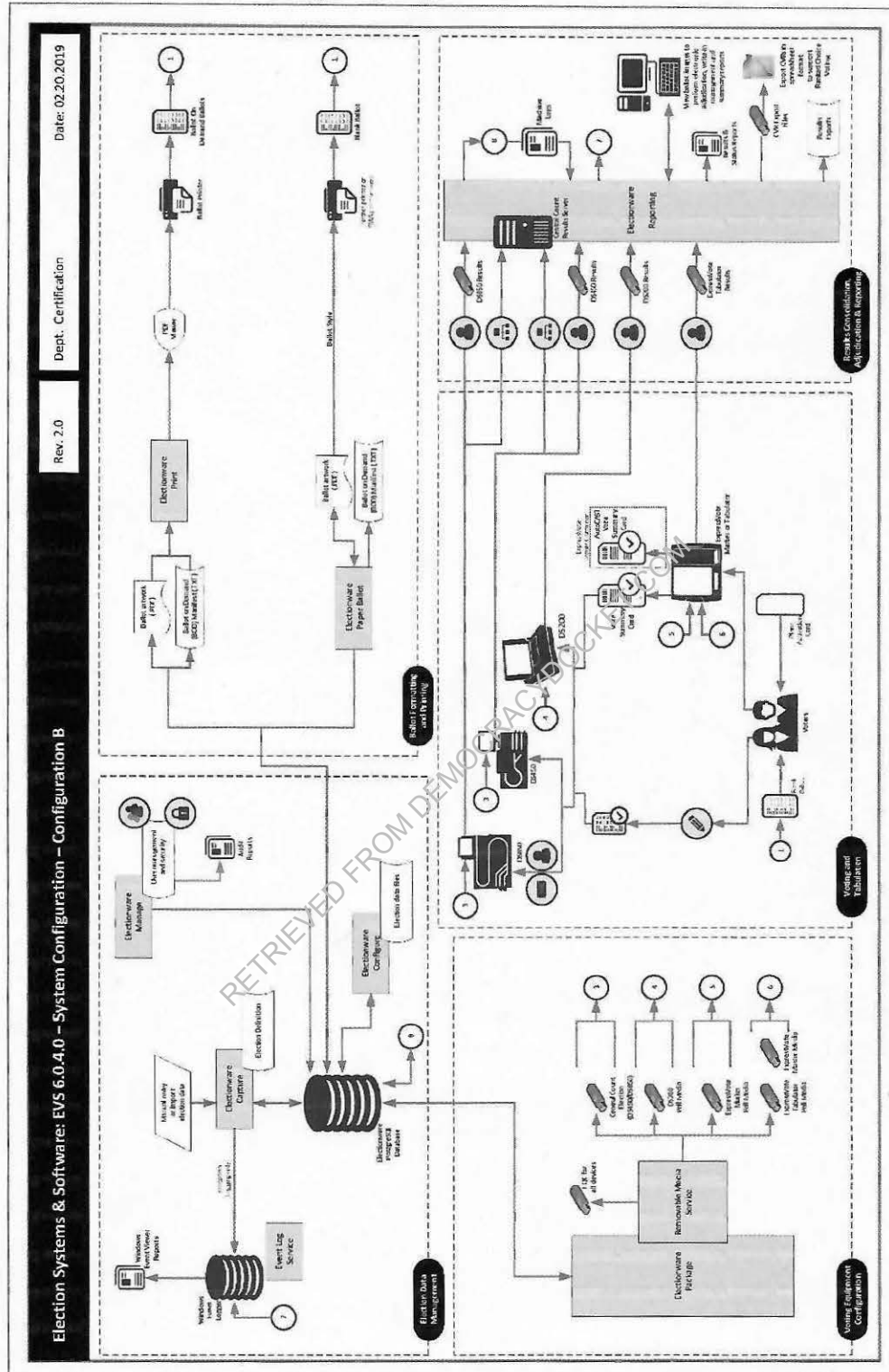
Manufacturer	Hardware	Model/Version
Dell	EMS Server	PowerEdge T420, T630
Dell	EMS Client or Standalone Workstation	Latitude 5580, E6430 OptiPlex 5040, 5050, 7020
Dell	Trusted Platform Module (TPM) Chip version 1.2	R9X21
Innodisk	USB EDC H2SE (1GB) for ExpressVote 1.0	DEEUH1-01GI72AC1SB
Innodisk	USB EDC H2SE (16GB) for ExpressVote 2.1	DEEUH1-16GI72AC1SB
Delkin	USB Flash Drive (512MB, 1GB, 2GB, 4GB, 8GB)	N/A
Delkin	Validation USB Flash Drive (16 GB)	N/A
Delkin	USB Embedded 2.0 Module Flash Drive	MY16TNK7A-RA042-D/ 16 GB
Delkin	Compact Flash Memory Card (1GB)	CE0GTFHHK-FD038-D
Delkin	Compact Flash Memory Card Reader/Writer	6381
Delkin	CFAST Card (2GB, 4GB)	N/A
Lexar	CFAST Card Reader/Writer	LRWCR1TBNA
CardLogix	Smart Card	CLXSU128kC7/ AED C7
SCM Microsystems	Smart Card Writer	SCR3310
Avid	Headphones	86002
Zebra Technologies	QR code scanner (Integrated)	DS457-SR20009, DS457-SR20004ZZWW
Symbol	QR Code scanner (External)	DS9208
Dell	DS450 Report Printer	S2810dn
OKI	DS450 and DS850 Report Printer	B431dn, B431d, B432DN
OKI	DS450 and DS850 Audit Printer	Microline 420
APC	DS450 UPS	Back-UPS Pro 1500, Smart-UPS 1500
APC	DS850 UPS	Back-UPS RS 1500, Pro 1500
Tripp Lite	DS450 and DS850 Surge Protector	Spike Cube
Seiko Instruments	Thermal Printer	LTPD-347B
NCR/Nashua	Paper Roll	2320
Fujitsu	Thermal Printer	FTP-62GDSL001, FTP-63GMCL153

Configuration Diagrams

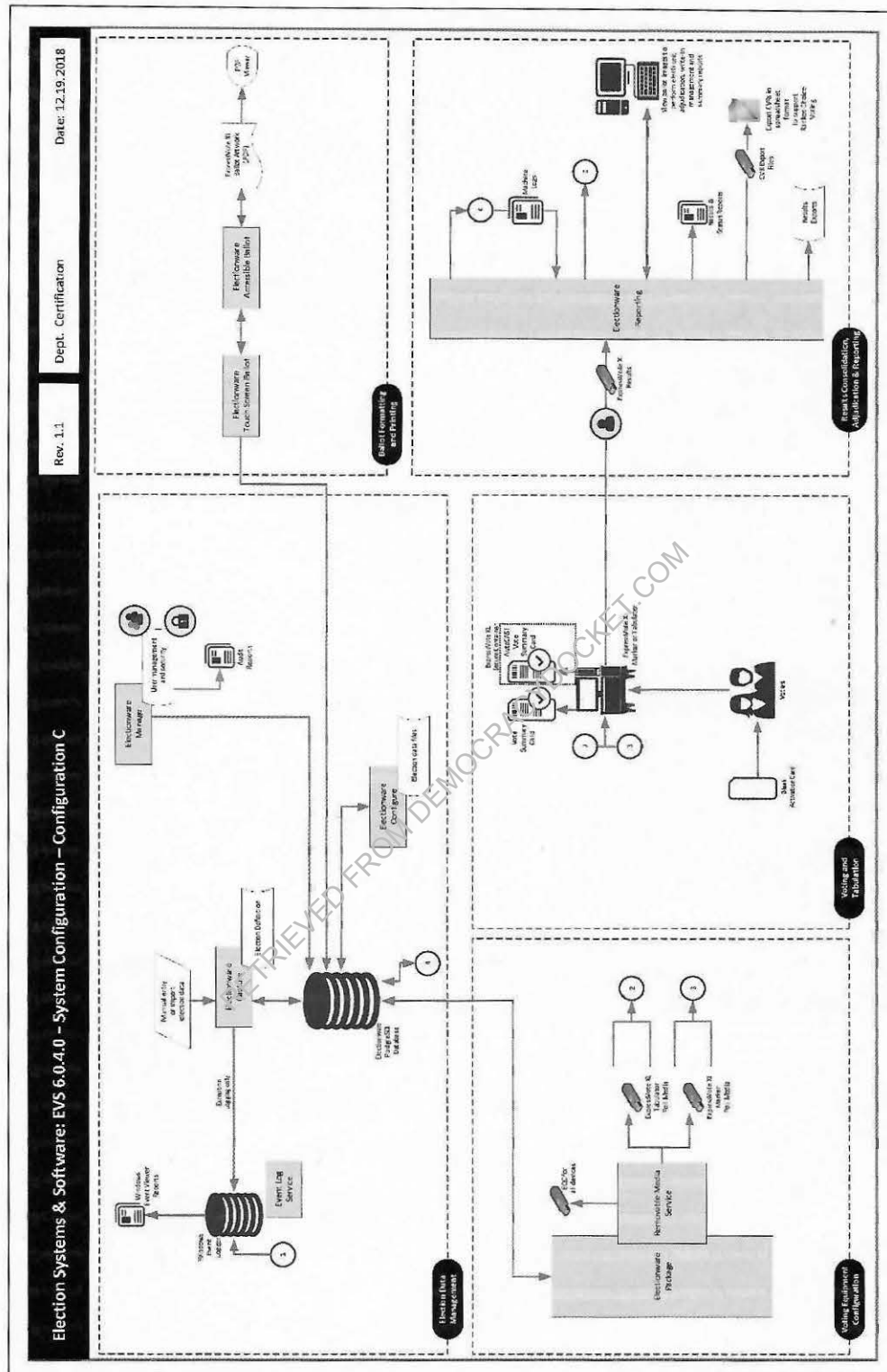
Configuration A



Configuration B



Configuration C



System Limitations

This table depicts the limits the system has been tested and certified to meet.

System Characteristic	Boundary or Limitation	Limiting Component
Max. precincts allowed in an election	9,900	Electionware
Max. ballot styles in an election	15,000	Electionware
Max. candidates allowed per election	10,000	Electionware
Max. contests allowed in an election	10,000	Electionware
Max. number of parties allowed	General election: 75 Primary election: 30	Electionware
Max. District Types/Groups	25	Electionware
Max. districts of a given type	250	
Max. Contests allowed per ballot style	500	
Max. Reporting Groups in an election	14	Electionware
Max. candidates allowed per contest	230	Electionware
Max. "Vote For" per contest	230	Electionware
Max. ballots per batch	1,500	DS45/DS850

Component Limitations:

Electionware

1. Electionware software field limits were calculated based on an average character width for ballot and report elements. Some uses and conditions, such as magnified ballot views or combining elements on printed media or ballot displays, may result in field limits (and associated warnings) lower than those listed. Check printed media and displays before finalizing the election.
2. The Electionware Export Ballot Images function is limited to 250 districts per export.
3. Electionware supports the language special characters listed in the System Overview, Attachment 1. Language special characters other than those listed may not appear properly when viewed on equipment displays or reports.
4. The Straight Party feature must not be used in conjunction with the Single or Multiple Target Cross Endorsement features.

5. The 'MasterFile.txt' and the 'Votes File.txt' do not support results for elections that contain multiple sheets or multiple ExpressVote cards per voter. These files can be produced using the Electionware > Reporting > Tools > Export Results menu option. This menu option is available when the Rules Profile is set to "Illinois".

Paper Ballot Limitations

1. The paper ballot code channel, which is the series of black boxes that appear between the timing track and ballot contents, limits the number of available ballot variations depending on how a jurisdiction uses this code to differentiate ballots. The code can be used to differentiate ballots using three different fields defined as: Sequence (available codes 1-16,300), Type (available codes 1-30) or Split (available codes 1-18).
2. If Sequence is used as a ballot style ID, it must be unique election-wide and the Split code will always be 1. In this case the practical style limit would be 16,300.
3. The ExpressVote activation card has a limited ballot ID based on the three different fields defined as: Sequence (available codes 1-16,300), Type (available codes 1-30) or Split (available codes 1-18).
4. Grid Portrait and Grid Landscape ballot types are New York specific and not for general use.

ExpressVote

1. ExpressVote capacities exceed all documented limitations for the ES&S election management, vote tabulation and reporting system. For this reason, Election Management System and ballot tabulator limitations define the boundaries and capabilities of the ExpressVote system as the maximum capacities of the ES&S ExpressVote are never approached during testing.

ExpressVote XL

1. ExpressVote XL capacities exceed all documented limitations for the ES&S election management, vote tabulation and reporting system. For this reason, Election Management System and ballot tabulator limitations define the boundaries and capabilities of the ExpressVote XL system as the maximum capacities of the ES&S ExpressVote XL are never approached during testing.
2. ExpressVote XL does not offer open primary support based on the ES&S definition of Open Primary, which is the ability to select a party and vote based on that party.
3. ExpressVote XL does not support Massachusetts Group Vote.
4. ExpressVote XL does not support Universal Primary Contest.
5. ExpressVote XL does not support Multiple Target Cross Endorsement.
6. ExpressVote XL does not support Reviewer or Judges Initials boxes.
7. ExpressVote XL does not support multi-card ballots.
8. In a General election, one ExpressVote XL screen can hold 32 party columns if set up as columns or 16 party rows if set up as rows.
9. ExpressVote XL does not support Team Write-In.

ExpressTouch

1. ExpressTouch capacities exceed all documented limitations for the ES&S election management, vote tabulation and reporting system. For this reason, Election Management System limitations define the boundaries and capabilities of the ExpressTouch system as the maximum capacities of the ES&S ExpressTouch are never approached during testing.

2. ExpressTouch does not offer open primary support, which is the ability to select a party and vote based on that party.
3. ExpressTouch does not support Massachusetts Group Vote.
4. ExpressTouch does not support Universal Primary Contest.
5. ExpressTouch does not support Multiple Target Cross Endorsement.
6. ExpressTouch does not support Team Write-In.

DS200

1. The ES&S DS200 configured for an early vote station does not support precinct level results reporting. An election summary report of tabulated vote totals is supported.
2. The DS200 storage limitation for write-in ballot images is 3,600 images. Each ballot image includes a single ballot face, or one side of one page.
3. Write-in image review requires a minimum 1GB of onboard RAM.
4. To successfully use the Write-In Report, ballots must span at least three vertical columns. If the column is greater than 1/3 of the ballot width (two columns or less), the write-in image will be too wide to print on the tabulator report tape.

Functionality

VVSG 1.0 Supported Functionality Declaration

Feature/Characteristic	Yes/No	Comment
Voter Verified Paper Audit Trails		
VVPAT	No	
Accessibility		
Forward Approach	Yes	
Parallel (Side) Approach	Yes	
Closed Primary		
Primary: Closed	Yes	
Open Primary		
Primary: Open Standard (provide definition of how supported)	Yes	Configuration B only
Primary: Open Blanket (provide definition of how supported)	No	
Partisan & Non-Partisan:		
Partisan & Non-Partisan: Vote for 1 of N race	Yes	
Partisan & Non-Partisan: Multi-member ("vote for N of M") board races	Yes	
Partisan & Non-Partisan: "vote for 1" race with a single candidate and write-in voting	Yes	
Partisan & Non-Partisan "vote for 1" race with no declared candidates and write-in voting	Yes	
Write-In Voting:		
Write-in Voting: System default is a voting position identified for write-ins.	Yes	
Write-in Voting: Without selecting a write in position.	Yes	
Write-in: With No Declared Candidates	Yes	
Write-in: Identification of write-ins for resolution at central count	Yes	
Primary Presidential Delegation Nominations & Slates:		
Primary Presidential Delegation Nominations: Displayed delegate slates for each presidential party	No	

Feature/Characteristic	Yes/No	Comment
Slate & Group Voting: one selection votes the slate.	No	
Ballot Rotation:		
Rotation of Names within an Office; define all supported rotation methods for location on the ballot and vote tabulation/reporting	Yes	
Straight Party Voting:		
Straight Party: A single selection for partisan races in a general election	Yes	
Straight Party: Vote for each candidate individually	Yes	
Straight Party: Modify straight party selections with crossover votes	Yes	
Straight Party: A race without a candidate for one party	Yes	
Straight Party: N of M race (where "N">1)	Yes	
Straight Party: Excludes a partisan contest from the straight party selection	Yes	
Cross-Party Endorsement:		
Cross party endorsements, multiple parties endorse one candidate.	Yes	
Split Precincts:		
Split Precincts: Multiple ballot styles	Yes	
Split Precincts: P & M system support splits with correct contests and ballot identification of each split	Yes	
Split Precincts: DRE matches voter to all applicable races.	Yes	
Split Precincts: Reporting of voter counts (# of voters) to the precinct split level; Reporting of vote totals is to the precinct level	Yes	It is possible to list the number of voters.
Vote N of M:		
Vote for N of M: Counts each selected candidate, if the maximum is not exceeded.	Yes	
Vote for N of M: Invalidates all candidates in an overvote (paper)	Yes	
Recall Issues, with options:		
Recall Issues with Options: Simple Yes/No with separate race/election. (Vote Yes or No Question)	No	
Recall Issues with Options: Retain is the first option, Replacement candidate for the second or more options (Vote 1 of M)	No	
Recall Issues with Options: Two contests with access to a second contest conditional upon a specific vote in contest one. (Must vote Yes to vote in 2 nd contest.)	No	
Recall Issues with Options: Two contests with access to a second contest conditional upon any vote in contest one. (Must vote Yes to vote in 2 nd contest.)	No	
Cumulative Voting		
Cumulative Voting: Voters are permitted to cast, as many votes as there are seats to be filled for one or more candidates. Voters are not limited to giving only one vote to a candidate. Instead, they can put multiple votes on one or more candidate.	No	
Ranked Order Voting		
Ranked Order Voting: Voters can write in a ranked vote.	No	
Ranked Order Voting: A ballot stops being counting when all ranked choices have been eliminated	No	

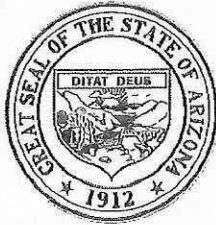
Feature/Characteristic	Yes/No	Comment
Ranked Order Voting: A ballot with a skipped rank counts the vote for the next rank.	No	
Ranked Order Voting: Voters rank candidates in a contest in order of choice. A candidate receiving a majority of the first choice votes wins. If no candidate receives a majority of first choice votes, the last place candidate is deleted, each ballot cast for the deleted candidate counts for the second choice candidate listed on the ballot. The process of eliminating the last place candidate and recounting the ballots continues until one candidate receives a majority of the vote	No	
Ranked Order Voting: A ballot with two choices ranked the same, stops being counted at the point of two similarly ranked choices.	No	
Ranked Order Voting: The total number of votes for two or more candidates with the least votes is less than the votes of the candidate with the next highest number of votes, the candidates with the least votes are eliminated simultaneously and their votes transferred to the next-ranked continuing candidate.	No	
Provisional or Challenged Ballots		
Provisional/Challenged Ballots: A voted provisional ballots is identified but not included in the tabulation but can be added in the central count	Yes	
Provisional/Challenged Ballots: A voted provisional ballots is included in the tabulation, but is identified and can be subtracted in the central count	Yes	
Provisional/Challenged Ballots: Provisional ballots maintain the secrecy of the ballot.	Yes	
Overvotes (must support for specific type of voting system)		
Overvotes: P & M: Overvote invalidates the vote. Define how overvotes are counted.	Yes	
Overvotes: DRE: Prevented from or requires correction of overvoting.	Yes	
Overvotes: If a system does not prevent overvotes, it must count them. Define how overvotes are counted.	Yes	
Overvotes: DRE systems that provide a method to data enter absentee votes must account for overvotes.	Yes	
Undervotes		
Undervotes: System counts undervotes cast for accounting purposes	Yes	
Blank Ballots		
Totally Blank Ballots: Any blank ballot alert is tested.	Yes	
Totally Blank Ballots: If blank ballots are not immediately processed, there must be a provision to recognize and accept them	Yes	
Totally Blank Ballots: If operators can access a blank ballot, there must be a provision for resolution.	Yes	
Networking		
Wide Area Network – Use of Modems	No	
Wide Area Network – Use of Wireless	No	
Local Area Network – Use of TCP/IP	No	
Local Area Network – Use of Infrared	No	

Feature/Characteristic	Yes/No	Comment
Local Area Network – Use of Wireless	No	
FIPS 140-2 validated cryptographic module	Yes	
Used as (if applicable):		
Precinct counting device	Yes	DS200, ExpressTouch, ExpressVote HW2.1, ExpressVote XL
Central counting device	Yes	DS450 and/or DS850

Baseline Certification Engineering Change Order's (ECO)

This table depicts the ECO's certified with the voting system:

Change ID	Date	Component	Description	Inclusion
ECO 938	12/14/18	DS200	Texture Free Surface for Security Seals	DeMinimis Optional
ECO 982	2/20/19	ExpressVote XL	Add Cord Wrap Hooks, Filler for Card Bin and Shipping Bracket	DeMinimis Optional
ECO 988	4/29/19	ExpressVote	Add End of Life Zebra Scanner	DeMinimis Optional
ECO 989	4/29/19	ExpressVote	Adds Updated USB Thumb Drive Cover	DeMinimis Optional
ECO 991	4/29/19	DS200	Add Hardware Rev 1.3.11	Non-DeMinimis Optional
ECO 993	4/29/19	DS450	Adds Oki 432 Report Printer and APC Smart-UPS 1500	Non-DeMinimis Optional
ECO 1000	2/13/19	DS200 Collapsible Ballot Box	Adds Hardware Rev 1.1	De Minimis Optional
ECO 1004	12/14/18	DS450	Add Oki 432 Report Printer Due to End of Life	De Minimis Optional
ECO 1005	12/14/18	DS850	Add Oki 432 Report Printer Due to End of Life	De Minimis Optional
ECO 1016	2/13/19	ExpressVote Voting Booth	Added Enhanced Doors	De Minimis Optional
ECO 2160	4/29/19	ExpressVote	Lengthen Detachable Key Pad Cord	De Minimis Optional



KATIE HOBBS
SECRETARY OF STATE
State of Arizona

November 5, 2019

Susan Parmer
State Certification Manager
Election Systems & Software
11208 John Galt Blvd
Omaha, NE 68137

Dear Ms. Parmer,

Elections Systems & Software (ES&S) has requested certification of the EVS 6.0.4.0 Voting Systems. The EVS 6.0.4.0 Voting System consists of the following components:

Component Name	Software/Firmware Version	Hardware Version
Electionware	5.0.4.0	-
DS200	2.17.4.0	HW 1.2 & 1.3
DS450	3.1.1.0	HW 1.0
DS850	3.1.1.0	HW 1.0
ExpressVote	1.5.2.0	HW 1.0
ExpressVote	2.4.5.0	HW 2.1

The Secretary of State's Equipment Certification Advisory Committee, appointed by me pursuant to A.R.S. § 16-442, met in a public meeting held October 29, 2019, to discuss your application and make a final recommendation on certification. The Committee forwarded their findings and recommendation for conditional certification.

I concur with the Committee report and hereby approve and grant conditional certification of the EVS 6.0.4.0 Voting Systems for use in Arizona's state, county, city, and town elections with the following conditions:

- 1) the ExpressVote units will not be programmed and/or used as a tabulation unit;
- 2) conditional certification of the electronic adjudication feature contingent on the process being authorized in the next Elections Procedures Manual and conducted in compliance with the procedures defined therein; and
- 3) the EAC issues approval of the Software Engineering Change Order to address the missing Spanish translation on the ExpressVote ballot by January 2, 2021. In the event the EAC denies approval for the Change Order or EAC approval for the Change Order is not issued by January 2, 2021, the EVS 6.0.4.0 voting system may be subject to decertification.

1700 West Washington Street, Floor 7
Phoenix, Arizona 85007-2808
Telephone (602) 542-4285 Fax (602) 542-1575
www.azsos.gov

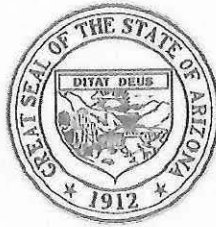
As a reminder, before the voting system may be used in a state election, the application source code must be placed in escrow with the State of Arizona as the recipient of escrow. Should questions arise regarding this certification, please contact Janine Petty, Deputy State Election Director at 602-542-6209.

Sincerely,

A handwritten signature in black ink, appearing to read 'Katie Hobbs', followed by a long horizontal line extending to the right.

Katie Hobbs
Secretary of State

RETRIEVED FROM DEMOCRACYDOCKET.COM



KATIE HOBBS
SECRETARY OF STATE
State of Arizona

February 24, 2020

Susan Parmer
State Certification Manager
Election Systems & Software
11208 John Galt Blvd
Omaha, NE 68137

Dear Ms. Parmer,

Elections Systems & Software (ES&S) has requested certification of Engineering Change Order # 1045 (ECO) for software components of the ExpressVote HW 1.0 & 2.1 as it relates to the EVS 6.0.4.0 voting system release previously conditionally certified for use in Arizona elections.

The Secretary of State Equipment Certification Advisory Committee, appointed by me pursuant to A.R.S. § 16-442, met in a public meeting held January 28, 2020 to review your application and supporting documentation. The Committee forwarded their findings and recommendation for certification.

I concur with the Committee report and hereby approve and grant certification of ECO # 1045 which includes:

ECO #	Component	Hardware Version	Software/Firmware Version
1045	ExpressVote	HW 1.0	1.5.2.1
	ExpressVote	HW 2.1	2.4.5.1

In addition, I believe ES&S has demonstrated that ECO # 1045 has fully addressed the missing Spanish translation issue previously identified on the ExpressVote units which needed to be resolved prior to January 2, 2021 or the system may be subject to decertification. Therefore, I grant certification of EVS 6.0.4.0 Voting System for use in Arizona's state, county, city, and town elections with the following conditions:

- 1) The ExpressVote units will not be programmed and/or used as a tabulation unit;
- 2) Certification of the electronic adjudication feature contingent on the process being conducted in accordance with A.R.S. § 16-621(B) and the Elections Procedures Manual.

1700 West Washington Street, Floor 7
Phoenix, Arizona 85007-2808
Telephone (602) 542-4285 Fax (602) 542-1575
www.azsos.gov

As a reminder, before the voting system may be used in a state election, the application source code must be placed in escrow with the State of Arizona as the recipient of escrow. Should questions arise regarding this certification, please contact Janine Petty, Deputy State Election Director at 602-542-6209.

Sincerely,

A handwritten signature in black ink, appearing to be 'Katie Hobbs', followed by a long horizontal line extending to the right.

Katie Hobbs
Secretary of State

RETRIEVED FROM DEMOCRACYDOCKET.COM

EXHIBIT C

RETRIEVED FROM DEMOCRACYDOCKET.COM



Cochise County Elections Department

Public Programs...Personal Service
www.cochise.az.gov

LISA M. MARRA
Director

MARTHA L. RODRIGUEZ
Deputy Director

November 12, 2022

The Honorable Katie Hobbs
Arizona Secretary of State
1700 West Washington St, 7th Floor
Phoenix, AZ 85007

Secretary Hobbs:

Pursuant to A.R.S. §16-602, the Cochise County Elections Department conducted the statutorily required hand count audit of the November 8, 2022 General Election. Cochise County tabulates Election Day ballots cast onsite at each Vote Center. All seventeen Vote Centers were included in the random draw for selection. Early ballots were tabulated at Central Count using one machine. Ten batches of approximately 200 ballots each were sequestered for the random draw representing selections from four non-consecutive random days of tabulation.

The Cochise County Party Chairs from the Democratic and Republican Parties provided the required six names with alternates to the Elections Director by the agreed upon deadline of October 21, 2022. The Democratic Party Chair, Elisabeth Tyndall and the authorized representative, Judy Smith, designated by the Republican Party Chair, Robert Montgomery, met at 2:00 pm on November 9, 2022 at the Elections Department in Bisbee to begin the hand count audit process. They randomly chose, by lot, the following Vote Centers and early batches:

Vote Center 2 Bisbee - 601 ballots cast
Batch #1 - 200 early ballots cast

Vote Center 5 Benson - 801 ballots cast
Batch #30 - 200 early ballots cast

Four contested races were selected by random lot draw as required by law for the General

Election. The following races were drawn for audit:

Federal Candidate – US Representative (CD 6 & CD 7) - 4 Candidates
Statewide Candidate – Superintendent of Public Instruction – 2 Candidates
Statewide Legislative – State Representative (LD 19 & LD 21) – 7 Candidates
Statewide Ballot Measure – Proposition 309 – 2 options (yes/no)

Twelve hand count members, six each from the Democratic and Republican Parties convened at 9:00 am on Saturday, November 12, 2022 at the Elections Department in Bisbee to begin the hand count. Following the administration of the Oath to all present and providing detailed instructions, the physical hand count began at 9:45am. The tabulation method, as outlined in the Election Procedures Manual was utilized. The hand count was conducted by four boards, consisting of three members each with two auditors verifying results with machine produced batch results reports or result tapes from the Vote Center tabulators.

The Boards adjourned by 5:00 pm that same day, having successfully completed the hand count audit of the 2022 General Election. There were no discrepancies in any race audited by any Board. The aggregate hand count report, which depicts the results of the hand count audit for each race is attached along with the hand count summary report for each Board. Overall, four races represented by fifteen candidates/options on a total of one thousand eight hundred and two ballots (1802) were successfully hand audited.

As the Officer in Charge of Elections for Cochise County, I am pleased to report that all races selected and all ballots that were hand counted by these political party board members matched the machine determined results with no discrepancy in any race resulting in an absolute difference of zero.

Respectfully Submitted,



Lisa M. Marra, CERA, CPM
Director of Elections
Cochise County, State of Arizona



**COCHISE COUNTY, ARIZONA
POLITICAL PARTY HAND COUNT
November 8, 2022 General Election**

Handcount process to begin at **2:00pm on 11/9/2022** in the offices of the Cochise County Elections Department – 1415 Melody Lane, Building E, Bisbee, AZ.

The physical handcount will begin at 9:00 on Saturday, November 12, 2022. 6 members from each political party that were provided by October 21, 2022.

Party order to draw: Draw First Judy R Draw Second Elisabeth D

Official Vote Center Count Draw (1-17 Vote Centers)

2% of Vote Centers or 2 minimum 601

801

Vote Center draw VC2 Vote Center draw VC5
Brubee Benson

Number of Races to Count per Category (up to 4 contested races)

Federal Race (US Senate/Rep) US Rep (7)

Statewide Candidate School Superintendent

State Legislature State Rep 2

State Proposition 309

Official Early Ballot Count Draw

1% of Early Ballots cast (1 % or 5000) 22,790 counted as of election night = 228 ballots

Batches are approximately 200 ballots each. Draw consists of 2 batches sequestered from 3 random different days of tabulation:

Batches 1-4, 11-14, 55-58

Early Batch draw 1

Early Batch draw 30

Elisabeth Tyndall
Elisabeth Tyndall, Democratic Party Chair

Judy Smith
Judy Smith, for
Robert Montgomery, Republican Party Chair

Lisa M. Marra
Election Official: Lisa M. Marra, CERA, CPM
Director of Elections, Cochise County, AZ

Master List of All Contested Races

Election: November 8, 2022 General

Category: FEDERAL

Category: FEDERAL

Race: U.S. SENATE

Race: U.S. REPRESENTATIVE CD6

Category: FEDERAL

Race: U.S. REPRESENTATIVE CD 7

Category: STATEWIDE

Category: STATEWIDE

Race: GOVERNOR

Race: SECRETARY OF STATE

Category: STATEWIDE

Category: STATEWIDE

Race: ATTORNEY GENERAL

Race: STATE TREASURER

Category: STATEWIDE

Category: STATEWIDE

Race: SUPT. OF PUBLIC INSTRUCTION

Race: CORPORATION COMMISSIONER

Category: STATE LEGISLATIVE #LD19

Category: STATE LEGISLATIVE #LD21

Race: STATE REPRESENTATIVE

Race: STATE REPRESENTATIVE

Category: STATE LEGISLATIVE #LD21

Race: STATE SENATOR

Category: Statewide Ballot Measure

Category: Statewide Ballot Measure

Race: Prop 128

Race: Prop 129

Category: Statewide Ballot Measure

Category: Statewide Ballot Measure

Race: Prop 130

Race: Prop 131

Category: Statewide Ballot Measure

Race: Prop 132

Category: Statewide Ballot Measure

Race: Prop 209

Category: Statewide Ballot Measure

Race: Prop 211

Category: Statewide Ballot Measure

Race: Prop 308

Category: Statewide Ballot Measure

Race: Prop 309

Category: Statewide Ballot Measure

Race: Prop 310

RETRIEVED FROM DEMOCRACYDOCKET.COM



COCHISE COUNTY ELECTIONS

11/8/2022 General Election

Hand Count Board Sign in Sheet

The Hand Count Board, selected by the Cochise County Chairmen from the Republican and Democratic Party's, convened on November 12, 2022 at 9:00am at the Cochise County Elections Dept. located at 1415 Melody Lane, Building E, Bisbee, AZ

Name	Party	ID & VR Verified	Signature	Board / Position
Harry Brown	REP	<input checked="" type="checkbox"/>		1 J
Claribeth Davis	REP	<input checked="" type="checkbox"/>		2 I
Shannon Glaser	DEM	<input checked="" type="checkbox"/>		3 I
Ron Hale	REP	<input checked="" type="checkbox"/>		3 J
Diana Monson Hale	REP	<input checked="" type="checkbox"/>		4 J
Randy Limbach	REP	<input checked="" type="checkbox"/>		3 J
Steve Marlatt	DEM	<input checked="" type="checkbox"/>		1 I
Carl Anne Park	DEM	<input checked="" type="checkbox"/>		1 J
David Penrose	DEM	<input checked="" type="checkbox"/>		2 J
Lanae Rogers	DEM	<input checked="" type="checkbox"/>		4 J
Judy Smith	REP	<input checked="" type="checkbox"/>		4 I
Sharon Strachon	DEM	<input checked="" type="checkbox"/>		2 J

Alternate: Deborah Graves not present

County Judge Auditor

Cochise County, Arizona**AGGREGATE - EARLY BALLOT AUDIT - HAND COUNT REPORT
TOTAL FROM ALL BATCHES and VOTE CENTERS****Election: November 8, 2022 (General)****Race Category: Federal Candidate****Race: U.S. Representative (CD6 & CD7)**

		Hand Count Total	Machine Count Total	Absolute Difference
Batch 1 (Board 1)	200 ballots	199	199	0
Batch 30 (Board 2)	200 ballots	199	199	0
Vote Center 2 (Board 3)	601 ballots	594	594	0
Vote Center 5 (Board 4)	801 ballots	789	789	0
Totals:		1781	1781	

Aggregated Margin

Margin = Absolute Difference ÷ Machine Count X 100

0%

Race Category: Statewide**Race: Superintendent of Public Instruction**

		Hand Count Total	Machine Count Total	Absolute Difference
Batch 1		197	197	0
Batch 30		193	193	0
Vote Center 2		596	596	0
Vote Center 5		791	791	0
Totals:		1777	1777	

Aggregated Margin

Margin = Absolute Difference ÷ Machine Count X 100

0%

Race Category: Legislative**Race: State Representative (LD19 & LD21)**

		Hand Count Total	Machine Count Total	Absolute Difference
Batch 1		314	314	0
Batch 30		274	274	0
Vote Center 2		1131	1131	0
Vote Center 5		1485	1485	0
Totals:		3204	3204	

Aggregated Margin

Margin = Absolute Difference ÷ Machine Count X 100

0 %

Race Category: Ballot Measure**Race: Proposition 309**

		Hand Count Total	Machine Count Total	Absolute Difference
Batch 1		191	191	0
Batch 30		190	190	0
Vote Center 2		586	586	0
Vote Center 5		768	768	0
Totals:		1735	1735	

Aggregated Margin

Margin = Absolute Difference ÷ Machine Count X 100

0 %

COCHISE COUNTY, ARIZONA**PRECINCT HAND COUNT REPORT****November 8, 2022 General Election****Early Batch # 1 200 ballots****BOARD # 1****Race Category: Federal****Race: US Rep in Congress**

Optical Scan			
Candidate Name	Hand Count Total	Machine Count Total	Absolute Difference
Ciscomani, Juan (REP) CD6	93	93	0
Engel, Kirsten (DEM) CD6	70	70	0
Pozzolo, Luis (REP) CD7	6	6	0
Grijalva, Raul (DEM) CD7	30	30	0
TOTAL	199	199	0

Comments for why a discrepancy occurred:

Race Category: Statewide**Race: Superintendent of Public Instruction**

Optical Scan			
Candidate Name	Hand Count Total	Machine Count Total	Absolute Difference
Horne, Tom (REP)	94	94	0
Hoffman, Kathy (DEM)	103	103	0
TOTAL	197	197	0

Comments for why a discrepancy occurred:

Race Category: State Legislature**Race: State Representative**

Optical Scan			
Candidate Name	Hand Count Total	Machine Count Total	Absolute Difference
Kennedy, Damien (REP) LD21	5	5	0
McEwen, Deborah (REP) LD21	6	6	0
Hernandez, Consuelo (DEM) LD21	23	23	0
Stahl Hamilton, Stephanie (DEM) LD21	23	23	0
Diaz, Lupe (REP) LD19	89	89	0
Griffin, Gail (REP) LD19	92	9	0
Clark, Sanda (DEM) LD19	76	76	0
TOTAL	314	314	0

Comments for why a discrepancy occurred:

Race Category: Ballot Measure**Race: Proposition 309**

Optical Scan			
Candidate Name	Hand Count Total	Machine Count Total	Absolute Difference
YES	96	96	0
NO	95	95	0
TOTAL	191	191	0

Comments for why a discrepancy occurred:

*** Carry Totals to Aggregate Precinct Hand Count Report ***

COCHISE COUNTY, ARIZONA

PRECINCT HAND COUNT REPORT November 8, 2022 General Election

Early Batch # 30 200 ballots

BOARD # 2

Race Category: Federal

Race: US Rep in Congress

Optical Scan			
Candidate Name	Hand Count Total	Machine Count Total	Absolute Difference
Ciscomani, Juan (REP) CD6	84	84	0
Engel, Kirsten (DEM) CD6	78	78	0
Pozzolo, Luis (REP) CD7	20	20	0
Grijalva, Raul (DEM) CD7	17	17	0
TOTAL	199	199	0

Comments for why a discrepancy occurred:

Race Category: Statewide

Race: Superintendent of Public Instruction

Optical Scan			
Candidate Name	Hand Count Total	Machine Count Total	Absolute Difference
Horne, Tom (REP)	92	92	0
Hoffman, Kathy (DEM)	101	101	0
TOTAL	193	193	0

Comments for why a discrepancy occurred:

Race Category: State Legislature

Race: State Representative

Optical Scan			
Candidate Name	Hand Count Total	Machine Count Total	Absolute Difference
Kennedy, Damien (REP) LD21	5	5	0
McEwen, Deborah (REP) LD21	6	6	0
Hernandez, Consuelo (DEM) LD21	2	2	0
Stahl Hamilton, Stephanie (DEM) LD21	2	2	0
Diaz, Lupe (REP) LD19	75	75	0
Griffin, Gail (REP) LD19	85	85	0
Clark, Sanda (DEM) LD19	99	99	0
TOTAL	274	274	0

Comments for why a discrepancy occurred:

Race Category: Ballot Measure

Race: Proposition 309

Optical Scan			
Candidate Name	Hand Count Total	Machine Count Total	Absolute Difference
YES	87	87	0
NO	103	103	0
TOTAL	190	190	0

Comments for why a discrepancy occurred:

* Carry Totals to Aggregate Precinct Hand Count Report *

Handwritten signature/initials

COCHISE COUNTY, ARIZONA**PRECINCT HAND COUNT REPORT
November 8, 2022 General Election****Vote Center 2 601 ballots****BOARD # 3****Race Category: Federal****Race: US Rep in Congress****Optical Scan**

Candidate Name	Hand Count Total	Machine Count Total	Absolute Difference
Ciscomani, Juan (REP) CD6	81	81	0
Engel, Kirsten (DEM) CD6	23	23	0
Pozzolo, Luis (REP) CD7	289	289	0
Grijalva, Raul (DEM) CD7	201	201	0
TOTAL	594	594	0

Comments for why a discrepancy occurred:

Race Category: Statewide**Race: Superintendent of Public Instruction****Optical Scan**

Candidate Name	Hand Count Total	Machine Count Total	Absolute Difference
Horne, Tom (REP)	354	354	0
Hoffman, Kathy (DEM)	242	242	0
TOTAL	596	596	0

Comments for why a discrepancy occurred:

Race Category: State Legislature**Race: State Representative****Optical Scan**

Candidate Name	Hand Count Total	Machine Count Total	Absolute Difference
Kennedy, Damien (REP) LD21	258	258	0
McEwen, Deborah (REP) LD21	257	257	0
Hernandez, Consuelo (DEM) LD21	192	192	0
Stahl Hamilton, Stephanie (DEM) LD21	193	193	0
Diaz, Lupe (REP) LD19	100	100	0
Griffin, Gail (REP) LD19	90	90	0
Clark, Sanda (DEM) LD19	41	41	0
TOTAL	1131	1131	0

Comments for why a discrepancy occurred:

Race Category: Ballot Measure**Race: Proposition 309****Optical Scan**

Candidate Name	Hand Count Total	Machine Count Total	Absolute Difference
YES	338	338	0
NO	248	248	0
TOTAL	586	586	0

Comments for why a discrepancy occurred:

*** Carry Totals to Aggregate Precinct Hand Count Report ***

COCHISE COUNTY, ARIZONA**PRECINCT HAND COUNT REPORT
November 8, 2022 General Election****Vote Center 5 801 ballots****BOARD # 4****Race Category: Federal****Race: US Rep in Congress**

Optical Scan			
Candidate Name	Hand Count Total	Machine Count Total	Absolute Difference
Ciscomani, Juan (REP) CD6	710	710	0
Engel, Kirsten (DEM) CD6	74	74	0
Pozzolo, Luis (REP) CD7	2	2	0
Grijalva, Raul (DEM) CD7	3	3	0
TOTAL	789	789	0

Comments for why a discrepancy occurred: _____

Race Category: Statewide**Race: Superintendent of Public Instruction**

Optical Scan			
Candidate Name	Hand Count Total	Machine Count Total	Absolute Difference
Horne, Tom (REP)	708	708	0
Hoffman, Kathy (DEM)	83	83	0
TOTAL	791	791	0

Comments for why a discrepancy occurred: _____

Race Category: State Legislature**Race: State Representative**

Optical Scan			
Candidate Name	Hand Count Total	Machine Count Total	Absolute Difference
Kennedy, Damien (REP) LD21	1	1	0
McEwen, Deborah (REP) LD21	1	1	0
Hernandez, Consuelo (DEM) LD21	0	0	0
Stahl Hamilton, Stephanie (DEM) LD21	0	0	0
Diaz, Lupe (REP) LD19	687	687	0
Griffin, Gail (REP) LD19	702	702	0
Clark, Sanda (DEM) LD19	94	94	0
TOTAL	1485	1485	0

Comments for why a discrepancy occurred: _____

Race Category: Ballot Measure**Race: Proposition 309**

Optical Scan			
Candidate Name	Hand Count Total	Machine Count Total	Absolute Difference
YES	609	609	0
NO	159	159	0
TOTAL	768	768	0

Comments for why a discrepancy occurred: _____

*** Carry Totals to Aggregate Precinct Hand Count Report ***

EXHIBIT D

RETRIEVED FROM DEMOCRACYDOCKET.COM

[PRINT AGENDA](#)[RETURN TO THE SEARCH PAGE](#)

Cochise County Board of Supervisors

Public Programs...Personal Service
www.cochise.az.gov

TOM CROSBY
Supervisor
District 1

RICHARD G. KARWACZKA
County Administrator

ANN ENGLISH
Chairman
District 2

SHARON GILMAN
Deputy County Administrator

PEGGY JUDD
Vice-Chairman
District 3

TIM MATTIX
Clerk of the Board

AGENDA FOR SPECIAL BOARD MEETING TUESDAY, NOVEMBER 15, 2022 at 1:00 PM BOARD OF SUPERVISORS HEARING ROOM 1415 MELODY LANE, BUILDING G, BISBEE, AZ 85603

ANY ITEM ON THIS AGENDA IS OPEN FOR DISCUSSION AND POSSIBLE ACTION

ROLL CALL

Members of the Cochise County Board of Supervisors will attend either in person or by telephone, video or internet conferencing.

Members of the public may also attend this meeting via Microsoft Teams computer or mobile app, or via phone by calling 602-609-7513 or 888-680-6714, Conference ID 537 408 453#. If you have trouble accessing this meeting remotely, call 520-432-9200 for direction.

The Board may permit public comment during the discussion of any item on this agenda. To speak on an agenda item, complete and return the speaker request form to the Clerk of the Board prior to the start of the meeting.

ACTION

Board of Supervisors

1. Modify current standing action by the board of Oct. 24, 2022, regarding hand count audit Pursuant to ARS 16-602 B; to be 99.9% of ballots will be counted. (TO BE DECIDED IN EMERGENCY/SPECIAL MEETING-requested by 11/15/2022)** [Click to View](#)

Attachments

[Email](#)

Pursuant to the Americans with Disabilities Act (ADA), Cochise County does not, by reason of a disability, exclude from participation in or deny benefits or services, programs or activities or discriminate against any qualified person with a disability. Inquiries regarding compliance with ADA provisions, accessibility or accommodations can be directed to Cochise County ADA Coordinator, ADACoordinator@cochise.az.gov, (520) 432-9830, TDD (520) 432-8360, 1415 Melody Lane, Building C, Bisbee, AZ 85603.

Cochise County Board of Supervisors

1415 Melody Lane, Building G Bisbee, Arizona 85603
520-432-9200 520-432-5016 fax board@cochise.az.gov

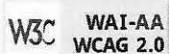
The undersigned hereby certifies that a copy of this notice was duly posted at the address listed above in accordance with the statement filed by the Cochise County Board of Supervisors.

Posted this _____ day of _____, 2022 at _____

by _____.

GO TO PREVIOUS PAGE

GO TO THE TOP OF THE PAGE



AgendaQuick ©2005 - 2022 Destiny Software Inc. All Rights Reserved.

RETRIEVED FROM DEMOCRACYDOCKET.COM

EXHIBIT E

RETRIEVED FROM DEMOCRACYDOCKET.COM

[PRINT AGENDA](#)
[RETURN TO THE SEARCH PAGE](#)


Cochise County Board of Supervisors

Public Programs...Personal Service
www.cochise.az.gov

TOM CROSBY
Supervisor
District 1

RICHARD G. KARWACZKA
County Administrator

ANN ENGLISH
Chairman
District 2

SHARON GILMAN
Deputy County Administrator

PEGGY JUDD
Vice-Chairman
District 3

TIM MATTIX
Clerk of the Board

AGENDA FOR SPECIAL BOARD MEETING FRIDAY, NOVEMBER 18, 2022 at 4:00 PM BOARD OF SUPERVISORS HEARING ROOM 1415 MELODY LANE, BUILDING G, BISBEE, AZ 85603

ANY ITEM ON THIS AGENDA IS OPEN FOR DISCUSSION AND POSSIBLE ACTION

ROLL CALL

Members of the Cochise County Board of Supervisors will attend either in person or by telephone, video or internet conferencing.

Members of the public may also attend this meeting via Microsoft Teams computer or mobile app, or via phone by calling 602-609-7513 or 888-680-6714, Conference ID 609 601 174#. If you have trouble accessing this meeting remotely, call 520-432-9200 for direction.

The Board may permit public comment during the discussion of any item on this agenda. To speak on an agenda item, complete and return the speaker request form to the Clerk of the Board prior to the start of the meeting.

ACTION

Board of Supervisors

1. Accept the elections results certified and submitted by the Cochise County Elections Department as the official canvass for the General Election held on November 8, 2022. [Click to View](#) -- Tabled

Attachments

[General Election Canvass Documents](#)

Pursuant to the Americans with Disabilities Act (ADA), Cochise County does not, by reason of a disability, exclude from participation in or deny benefits or services, programs or activities or discriminate against any qualified person with a disability. Inquiries regarding compliance with ADA provisions, accessibility or accommodations can be directed to Cochise County ADA Coordinator, ADACoordinator@cochise.az.gov, (520) 432-9830, TDD (520) 432-8360, 1415 Melody Lane, Building C, Bisbee, AZ 85603.

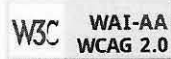
Cochise County Board of Supervisors

1415 Melody Lane, Building G Bisbee, Arizona 85603
520-432-9200 520-432-5016 fax board@cochise.az.gov

The undersigned hereby certifies that a copy of this notice was duly posted at the address listed above in accordance with the statement filed by the Cochise County Board of Supervisors.

Posted this _____ day of _____, 2022 at _____

by _____.

[GO TO PREVIOUS PAGE](#)[GO TO THE TOP OF THE PAGE](#)

AgendaQuick ©2005 - 2022 Destiny Software Inc. All Rights Reserved.

RETRIEVED FROM DEMOCRACYDOCKET.COM

EXHIBIT F

RETRIEVED FROM DEMOCRACYDOCKET.COM

Aria C. Branch
Lalitha D. Madduri
Christina Ford
Mollie DiBrell
Daniel Cohen
ELIAS LAW GROUP LLP
10 G St. NE, Suite 600
Washington, D.C. 20002
Telephone: (202) 968-4490

Roy Herrera
Daniel A. Arellano
Jillian L. Andrews
Austin T. Marshall
HERRERA ARELLANO LLP
1001 North Central Avenue, Suite 404
Phoenix, AZ 85004
Telephone: (602) 567-4820

November 22, 2022

Dear Mr. McIntyre,

We write on behalf of our clients, the Arizona Alliance for Retired Americans and Stephani Stephenson, regarding actions taken by the Cochise County Board of Supervisors (the "Board"). We are aware that on November 18, 2022, the Board voted 2-1 to postpone canvassing the election results to November 28, 2022. Supervisor Crosby stated that the Board made this decision to delay the canvass of election results "until such evidence about lawful certification [of voting equipment] by an accredited laboratory is presented and confirmed by persons with expertise in that field."¹ But all of the statutory prerequisites to certification have been completed, including the necessary hand-count audit under A.R.S.

¹ Video Recording of Nov. 18, 2022, Special Meeting at 2:15:28-2:15:51, available at <https://www.youtube.com/watch?v=RvAxd054xoM>.

§ 16-602—which found no discrepancies in any race²—and the Board receiving the complete election results.³ The Board must now canvass the election results.

The Board's decision to delay the County's canvass is the latest chapter in a long, baseless effort to call into question the results of the 2022 general election. First, the Board ignored the advice of its own legal counsel and voted to conduct an unlawful 100% hand count audit at its October 24, 2022 meeting. This prompted our clients to file a lawsuit to require the Board to conduct only the limited hand audit authorized under Arizona law. The Arizona Superior Court quickly granted our clients' requested relief in full. *See Ariz. All. For Ret. Ams. v. Crosby*, No. CV202200518, November 7, 2022 Order (Ariz. Sup. 2022). Our clients intend to seek attorney fees and costs incurred in this action.

But the Board was undeterred, filing motions for an expedited appeal in the Arizona Court of Appeals and to transfer jurisdiction to the Arizona Supreme Court. After those courts denied both motions, the Board lacked any viable legal path to conduct its illegal expanded hand count audit. The Board nonetheless continued to take steps to conduct an illegal supplemental hand count audit with Cochise County Recorder David Stevens. Upon learning of the Board's plans, our clients sent the Board and Recorder Stevens a letter on November 13, 2022, notifying them of our clients' intent to move to hold them in contempt because the plan to conduct a supplemental hand count audit violated the Superior Court's November 7 order. Supervisors Judd and Crosby then filed a patently frivolous lawsuit against the County Elections Director in her personal capacity seeking to compel her to conduct an unlawful expanded hand count audit or to illegally relinquish custody of the ballots. Supervisors Judd and Crosby abruptly withdrew that petition after our clients moved to intervene in the litigation.

Now, the Board has voted to delay its canvass and condition it upon irrelevant evidence from unknown "experts." But as you and the Board are no doubt aware—and as State Elections Director Kori Lorick explained to you in her November 21, 2022, letter—Arizona law requires the Board to "meet and canvass the election" no later than "twenty days following the election," or November 28. A.R.S. § 16-642(A). This ministerial duty is mandatory, not discretionary: the Board "must canvass" the election results and, as stated in the 2019 Elections Procedures Manual ("EPM"), "[t]he Board of Supervisors has a non-discretionary duty to canvass the returns as provided by the County Recorder or other

² The results of this audit are available on the Arizona Secretary of State's website at <https://azsos.gov/sites/default/files/2022GeneralHandCountReport-Cochise.pdf>.

³ These complete election results are available on the Board's website at https://destinyhosted.com/cochidocs/2022/SPCL/20221118_2470/6792_ElectionUpdate_Final.pdf.

officer in charge of elections and *has no authority to change vote totals or reject the election results.*"⁴ EPM at 240 (emphasis added). Moreover, the Secretary of State's office has already provided written proof of the accreditation of the laboratories that tested and certified the voting equipment used in Cochise County.

Given that the Board has already received the complete election results, any further postponements or refusal to canvass the election results by November 28 would be unlawful and would violate the Board's mandatory duty under A.R.S. § 16-642 and the EPM.

If the Board refuses to perform its mandatory statutory duty to accept and canvass the election results by November 28, 2022, we will take swift legal action and seek attorney fees and costs.

Respectfully,

Lali Madduri

Lali Madduri

*Counsel for Arizona Alliance for Retired
Americans and Stephani Stephenson*

CC: Bryan Blehm (bryan@theyvalleylawgroup.com)

⁴ The 2019 EPM is available on the Arizona Secretary of State's website at https://azsos.gov/sites/default/files/2019_ELECTIONS_PROCEDURES_MANUAL_APPROVE_D.pdf.

EXHIBIT G

RETRIEVED FROM DEMOCRACYDOCKET.COM

[PRINT AGENDA](#)
[RETURN TO THE SEARCH PAGE](#)


Cochise County Board of Supervisors

Public Programs...Personal Service
www.cochise.az.gov

TOM CROSBY
Supervisor
District 1

RICHARD G. KARWACZKA
County Administrator

ANN ENGLISH
Chairman
District 2

SHARON GILMAN
Deputy County Administrator

PEGGY JUDD
Vice-Chairman
District 3

TIM MATTIX
Clerk of the Board

AGENDA FOR SPECIAL BOARD MEETING MONDAY, NOVEMBER 28, 2022 at 10:00 AM BOARD OF SUPERVISORS HEARING ROOM 1415 MELODY LANE, BUILDING G, BISBEE, AZ 85603

ANY ITEM ON THIS AGENDA IS OPEN FOR DISCUSSION AND POSSIBLE ACTION

ROLL CALL

Members of the Cochise County Board of Supervisors will attend either in person or by telephone, video or Internet conferencing.

Members of the public may also attend this meeting via Microsoft Teams computer or mobile app, or via phone by calling 602-609-7513 or 888-680-6714, Conference ID 401 849 35#. If you have trouble accessing this meeting remotely, call 520-432-9200 for direction.

ACTION

Board of Supervisors

1. [Item tabled from the November 18, 2022 Special Meeting] Accept the elections results certified and submitted by the Cochise County Elections Department as the official canvass for the General Election held on November 8, 2022. [Click to View](#)

Attachments

[Director Report](#)

[General Election Canvass Documents](#)

[Arizona Secretary of State Material](#)

Pursuant to the Americans with Disabilities Act (ADA), Cochise County does not, by reason of a disability, exclude from participation in or deny benefits or services, programs or activities or discriminate against any qualified person with a disability. Inquiries regarding compliance with ADA provisions, accessibility or accommodations can be directed to Cochise County ADA Coordinator, ADACoordinator@cochise.az.gov, (520) 432-9830, TDD (520) 432-8360, 1415 Melody Lane, Building C, Bisbee, AZ 85603.

Cochise County Board of Supervisors
1415 Melody Lane, Building G Bisbee, Arizona 85603
520-432-9200 520-432-5016 fax board@cochise.az.gov

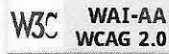
The undersigned hereby certifies that a copy of this notice was duly posted at the address listed above in accordance with the statement filed by the Cochise County Board of Supervisors.

Posted this _____ day of _____, 2022 at _____

by _____.

[GO TO PREVIOUS PAGE](#)

[GO TO THE TOP OF THE PAGE](#)



AgendaQuick ©2005 - 2022 Destiny Software Inc. All Rights Reserved.

RETRIEVED FROM DEMOCRACYDOCKET.COM

EXHIBIT H

RETRIEVED FROM DEMOCRACYDOCKET.COM

Special Board of Supervisors Meeting - 10:00 am

[Print](#)
[Reading Mode](#)
[Return to the Search Page](#)
[Return to the Agenda](#)

Action 1.

Board of Supervisors

Meeting Date: 11/28/2022

Elections Department official canvass for the 2022 General Election

Submitted By: Tim Mattix, Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

Document Signatures:

Recommendation:

of ORIGINALS

Submitted for Signature:

NAME Lisa M. Marra

of PRESENTER:

TITLE

of PRESENTER:

Elections

Director

Mandated Function?:

Source of Mandate

or Basis for Support?:

Information

Agenda Item Text:

[Item tabled from the November 18, 2022 Special Meeting] Accept the elections results certified and submitted by the Cochise County Elections Department as the official canvass for the General Election held on November 8, 2022.

Background:

As set forth in Arizona Revised Statutes the Board of Supervisors shall meet to accept the canvass.

Department's Next Steps (if approved):

Submit official canvassed results of the General Election to the Secretary of State.

Impact of NOT Approving/Alternatives:

Cochise County will not be in compliance with State Statute for certifying election results.

To BOS Staff: Document Disposition/Follow-Up:

Send copy of approved minutes to Elections Department.

Budget Information

Information about available funds

Budgeted:

Funds Available:

Amount Available:

Unbudgeted:

Funds NOT Available:

Amendment:

Account Code(s) for Available Funds

1:

Fund Transfers

Attachments

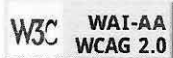
[Director Report](#)

[General Election Canvass Documents](#)

Arizona Secretary of State Material

[GO TO PREVIOUS PAGE](#)

[GO TO THE TOP OF THE PAGE](#)



AgendaQuick ©2005 - 2022 Destiny Software Inc. All Rights Reserved.

RETRIEVED FROM DEMOCRACYDOCKET.COM

EXHIBIT I

RETRIEVED FROM DEMOCRACYDOCKET.COM

Special Board of Supervisors Meeting - 4:00 pm

[Print](#)
[Reading Mode](#)
[Return to the Search Page](#)
[Return to the Agenda](#)
Action 1.

Board of Supervisors

Meeting Date: 11/18/2022

Elections Department official canvass for the 2022 General Election

Submitted By: Tim Mattix, Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

Document Signatures:
Recommendation:
of ORIGINALS
Submitted for Signature:
NAME Lisa M. Marra

of PRESENTER:
TITLE
of PRESENTER:
Elections
Director
Mandated Function?:
Source of Mandate
or Basis for Support?:

Information

Agenda Item Text:

Accept the elections results certified and submitted by the Cochise County Elections Department as the official canvass for the General Election held on November 8, 2022.

Background:

As set forth in Arizona Revised Statutes the Board of Supervisors shall meet to accept the canvass.

Department's Next Steps (if approved):

Submit official canvassed results of the General Election to the Secretary of State.

Impact of NOT Approving/Alternatives:

Cochise County will not be in compliance with State Statute for certifying election results.

To BOS Staff: Document Disposition/Follow-Up:

Send copy of approved minutes to Elections Department.

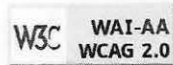
Budget Information

Information about available funds

Budgeted:
Funds Available:
Amount Available:
Unbudgeted:
Funds NOT Available:
Amendment:
Account Code(s) for Available Funds
1:
Fund Transfers
Attachments

[General Election Canvass Documents](#)

[GO TO PREVIOUS PAGE](#)
[GO TO THE TOP OF THE PAGE](#)



AgendaQuick ©2005 - 2022 Destiny Software Inc. All Rights Reserved.

RETRIEVED FROM DEMOCRACYDOCKET.COM