

RFP EVALUATION TEAM

RFP #4730-06

Findings and Recommendations to the Boulder County Clerk and Recorder

Evaluation Team Members

Barbara Anuta

Deb Gardner

Faith Gross

Tim Hansford

Mike Harlan

Josh Liss (chair)

Marty Neilson (secretary)

Jana Petersen

Bo Shaffer

Nancy Jo Wurl

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In the evaluation of RFP #4730-06, the Boulder County Clerk and Recorder, Linda Salas, asked members of the public from various backgrounds, and with various interests, to assist her in the evaluation of proposals submitted for accessible voting systems to meet the requirements of the Help America Vote Act of 2002 (HAVA). This Evaluation Team is composed of ten members. Those members are:

1. **Barbara Anuta** – Representing the Boulder County League of Women Voters
2. **Deb Gardner** – Chair of the Boulder County Democratic Party
3. **Faith Gross** – Representing the Legal Center for People with Disabilities and Older People
4. **Tim Hansford** – Senior Systems Analyst for the office of the Boulder County Clerk and Recorder
5. **Mike Harlan** – Boulder County Information Technology Manager
6. **Josh Liss** – Boulder County Elections Coordinator, (RFP Evaluation Team Chair)
7. **Marty Neilson** – Chair of the Boulder County Republican Party, (RFP Evaluation Team Secretary)
8. **Jana Petersen** – Clerk to the Board of County Commissioners
9. **Bo Shaffer** – Chair of the Boulder County Libertarian Party, member of Citizens for Verifiable Voting
10. **Nancy Jo Wurl** – Chief Deputy Clerk and Recorder

(Note: The Boulder County ACLU was invited to participate and declined to place a member of their organization on the Evaluation Team.)

The Evaluation Team would like to thank Linda Salas for involving members of the public in this evaluation process. The team spent many hours considering the proposal from Hart InterCivic and discussed many issues in great detail. Considering the limitations outlined below, the team feels we discharged our duties with diligence and to the best of our ability.

On several occasions, the composition of the membership of this team was discussed among the team's members. While a majority of the team felt that representation was appropriate and well-chosen, a minority of the team was concerned that the voting activists community and the full spectrum of the persons with disabilities community were not fully represented as members on this team, and that the information these individuals may have brought to the evaluation process may have influenced the final recommendation of the team.

The charge of the RFP Evaluation Team is to determine if the proposal(s) submitted are responsive to the requirements of the RFP; to evaluate the proposal(s) and any vendor demonstrations provided; and to make a recommendation to the County Clerk and Recorder as to which system the Clerk should recommend a contract award to the Board of County Commissioners.

At the first meeting of the RFP Evaluation Team, each team member was distributed copies of the RFP released by Boulder County; a glossary of election terms used in the RFP and/or proposal to familiarize team members with election terminology; copies of HAVA Section 301 regarding voting system accessibility requirements; an evaluation matrix with which to grade vendor proposals; copies of “no-bid” responses from vendors who chose not to submit a bid; and a copy of the proposal submitted by Hart InterCivic.

The RFP Evaluation Team held a series of six meetings over the course of four weeks in order to evaluate the proposal submitted. The team also chose to allow public testimony during several of the meetings to allow any members of the public in attendance the opportunity to voice their opinions on the issue. Testimony was heard from citizens of Boulder County, including members of Citizens for Verifiable Voting, the Paper Tigers and the Center for People with Disabilities. In addition to verbal testimony, the team received and reviewed several written documents regarding the RFP.

The team acknowledges that pursuant to the federal Help America Vote Act of 2002, for elections conducted in 2006, each polling location must have a voting system that is “accessible for voters with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters”. (HR 3295, Title III, Section 301, (a)(3))

The team acknowledges that pursuant to Colorado Revised Statute 1-5-612, “an electronic or electromechanical voting system may be used on or after May 28, 2004, **only** if the system has been certified by the secretary of state...” (emphasis added).

The team acknowledges that in accordance with Secretary of State Election Rule 34.2, “No political subdivision shall purchase or lease direct recording electronic (DRE) voting systems or other systems equipped for voters with disabilities at each polling place unless such voting system(s) are fully certified pursuant to standards and guidelines recommended by the National Institution of Standards and Testing (NIST) and adopted by the U.S. Elections Assistance Commission (EAC)”.

The team believes that providing voting systems that are accessible for voters with disabilities is not only a requirement of law, but also an obligation owed to facilitate the equal civil rights of Boulder County’s citizens with disabilities. This is not just an issue of technology, cost, or legal requirements. It is primarily a civil rights issue.

What follows are the findings of the RFP Evaluation Team and our recommendations:

Factors considered in the evaluation of proposals submitted:

1) The system's certification status

- a. The proposed system has been certified federally by the National Association of State Elections Directors (NASSED) and for use in the State of Colorado by the Secretary of State.

2) Ease of use by voters, including voters with disabilities

- a. This system meets the 2002 Voluntary Voting System Guidelines (VVSG) set forth by the U.S. Election Assistance Commission (EAC). The team notes that the Hart system does not allow a voter who is both deaf and blind to vote independently; however, the team also recognizes that there is no system on the market that provides for this type of accessibility. The team expert on voters with disabilities has advised us that the Hart system is the most universally accessible certified system available at this time.
- b. For voters without disabilities, the Hart system is easy to use with minimal orientation.

3) Ease of use by election judges

- a. As compared to a paper voting system, any electronic system will be inherently more complex and will require additional training. The training support proposed by Hart is sufficient to meet this need. Included in their overall training proposal, Hart has committed to providing a training specialist and at least one technical support specialist. Hart has also committed to tailor the training to meet the County's specific needs for the 2006 elections.
- b. The County Clerk Office is currently assessing the skill sets of potential election judges in order to facilitate the ease of use of equipment by those judges. The team believes this assessment is essential for judges who would be using this system.
- c. Once trained, election judges should be capable of operating this system.
- d. Currently, the Clerk's office requires election judges to transport voting equipment and supplies to polling places. The team believes the use of this system will require the Clerk's Office to transport the equipment to the polling places.

4) Cost of system

- a. The team believes the proposed cost of the system for rental is too high when compared to an estimated purchase price. It is the understanding of the team that the proposed price for rental of equipment is the same as it would have been had the vendor been asked to submit a proposal for

purchase. A lack of competitive proposals from other voting system vendors prevents the team from having a cost comparison to consider. The team would have preferred to have had other vendors submit proposals for comparison purposes and feels it is unfortunate that other vendors showed no interest in working with Boulder County. The RFP to lease versus purchase may have limited the number of responses from other potential bidders.

- b. The team would like to recommend 1) that the County consider purchasing the equipment as opposed to renting it, if costs are comparable and 2) in the alternative, to attempt to negotiate a full credit for the rental amount towards the price of any future purchase of the same equipment.

5) Appropriateness of the system’s software to the Clerk’s needs and the ability of the system to be integrated into the Clerk’s current software

- a. The County currently uses the Ballot Now software from Hart, which is the paper ballot component of the Hart Voting System. One of the technical experts on the team advised us that the proposed eSlate system allows the County to use a common ballot definition for both paper and DRE ballots, reducing the opportunity for error.
- b. The use of the Mobile Ballot Box (MBB) is common to both systems. The MBBs that store votes from the eSlates are identical to those that store the votes from the scanned paper ballots. This allows the Clerk to combine results from the DRE systems with results from paper ballots using the County’s existing Tally software from Hart. Therefore, the proposed system can be easily integrated into Boulder County’s existing system.
- c. The team asserts that a post-election audit (which the team recognizes is different from a recount) of the E-Slate system, while cumbersome, is possible. In addition to existing statutory audit requirements, the team recommends that the Clerk seek approval from the Secretary of State to perform such an audit. The intent of this audit is to provide the public with reasonable assurance that the votes cast on the system were counted accurately.

6) Quality and cost of Vendor’s system support

- a. The proposed cost for vendor support accounts for 6% of the total proposed cost for system implementation.
- b. The vendor has submitted a detailed project implementation plan, which outlines each of the proposed project milestones and identifies the nature of Hart’s support throughout project implementation.
- c. The team feels that Hart’s proposed project implementation plan identifies a sufficient level of support for Boulder County, including, but not limited to, needs assessment, planning, training, and voter education & outreach.

- d. The team recommends that the Clerk work closely with the vendor during the needs assessment and planning stages of project implementation to ensure that Boulder County's specific needs are met.
- e. The team recommends that the Clerk contact other current Hart customers to gain input on their experiences with Hart's support of the eSlate system.

7) Vendor qualifications and experience

- a. As outlined in the proposal, Hart InterCivic has been in the elections business for over 90 years. Over 30,000 eSlates are currently in use in ten states. The proposed system has already been used in official elections throughout the nation. The two largest counties in the nation who have already adopted electronic voting systems (Harris County, TX & Orange County, CA) currently use the eSlate system. The 172 counties who are currently Hart InterCivic customers represent over 9 million voters nationwide.
- b. The team acknowledges that Hart InterCivic has the qualifications and experience to successfully implement the project proposed for Boulder County.
- c. The team acknowledges that there are many counties nationwide who are also in the market for accessible voting systems in order to meet the requirements of the Help America Vote Act (HAVA).
- d. The team acknowledges that problems regarding the Hart system have been reported. The team questioned the vendor about reported problems with the system; however, these problems are still under investigation. Therefore, we recommend that the Clerk continue to monitor issues and reports involving use of the Hart system nationwide.
- e. The elections staff and election judges must have enough time to be properly trained and to become familiar with the use of this equipment in time for the 2006 Primary Election. Therefore, the team recommends that the Clerk act expeditiously to ensure that Boulder County meets the accessibility requirements of HAVA in a timely manner in order to receive the support needed from Hart InterCivic.

8) Financial history and stability of vendor

Hart has been in business for ninety years and appears to be financially stable.

9) Vendor arrangements to have the system manufactured

Hart InterCivic has contracted with the Suntron Corporation to manufacture all of the eSlate equipment at its facility in Sugarland, Texas. Suntron has produced all of the eSlate units to date. It appears to the team that there are no issues regarding the manufacturing of the Hart systems.

10) Storage requirements and the need for modifications

Units will be stored in the warehouse area of the Boulder County Clerk's building at 1750 33rd Street in Boulder. This space is currently being reconfigured to provide a permanent location for the ballot counting equipment and operation, and it includes a storage area for DRE units and their associated JBCs. The permanent solution for this storage space is being designed to accommodate storage for any accessible voting system, and is not specifically designed for this proposed system, should the County pursue a different alternative in the future. The cost of "caddies", which are customized storage racks designed to store eight voting booths and eSlate units each, is included in the proposal pricing.

11) Quality and quantity of staff training, election judge training and community outreach

- a. The team feels that it is absolutely vital for the elections division staff and the election judges to be thoroughly trained on the operation of the equipment and that sufficient time is devoted to making sure that they are comfortable with the equipment.
- b. Hart's proposal includes customized training to meet the specific needs of Boulder County. The team is satisfied that the level of support proposed in the areas of training and community outreach will be beneficial to the Clerk's office and to the citizens of Boulder County.
- c. The team recommends that a considerable amount of time and effort be made by the Clerk toward voter education and outreach regarding the proposed system. Voters should be informed about the time and location of demonstrations of the system, the optional use of the system, and how the system is operated. Particular attention should be paid to instilling voter confidence that the system is accurate and reliable. Of utmost importance is the need for targeted outreach to voters with disabilities.

12) Quality and extent of documentation provided

- a. The team notes that the proposal submitted by Hart InterCivic was thorough and informative and, in general, responsive to the RFP.
- b. The team felt that certain portions of the proposal were not as responsive as others.
- c. The team sent written follow-up questions to Hart InterCivic and received written answers back in a timely manner. The answers were responsive to the direct questions asked.

13) Scope and cost of warranty and maintenance

- a. The standard warranty as proposed by Hart appears to satisfy the needs of the County for the rental of the equipment.

- b. The extended warranty in the Proposal does not seem to be relevant to the scope of this RFP and the team does not recommend paying for such a warranty.

CONCLUSION

The team is disappointed that there was only one vendor response for us to consider and that there are only three vendors certified in the State of Colorado. We believe that this lack of competition significantly impeded the ability of the team to fully explore all of the available options on the market. For example, there was interest among the team and the public in reviewing ballot-marking systems; however, these systems were not available for our consideration, as they are not certified in Colorado.

Boulder County must comply with the provisions of the federal Help America Vote Act of 2002, the Colorado Revised Statutes and the Secretary of State's Election Rules and regulations. Additionally, the team believes that the County has a civic obligation to provide the highest possible level of accessibility for all of its eligible voters.

Based upon all of the considerations discussed in this document, the team recommends that the Boulder County Clerk & Recorder accept the proposal submitted by Hart InterCivic.

The team would like to include the following suggestions/comments/recommendations for the Clerk's consideration:

- 1) The team would like to recommend:
 - a. that the County consider purchasing the equipment as opposed to renting it, if costs are comparable, and
 - b. in the alternative, to attempt to negotiate a full credit for the rental amount towards the price of any future purchase of the same equipment.
- 2) The elections staff and election judges must have enough time to be properly trained and to become familiar with the use of this equipment in time for the 2006 Primary Election. Therefore, the team recommends that the Clerk act expeditiously to ensure that Boulder County meets the accessibility requirements of HAVA in a timely manner in order to receive the support needed from Hart InterCivic.
- 3) The team recommends that a considerable amount of time and effort be made by the Clerk toward voter education and outreach regarding the proposed system. Voters should be informed about the time and location of demonstrations of the system, the optional use of the system, and how the system is operated. Particular attention should be paid to instilling voter confidence that the system is accurate and reliable. Of utmost importance is the need for targeted outreach to voters with disabilities.
- 4) The team recommends that the Clerk contact other current Hart InterCivic customers to gain input on their experiences with Hart's eSlate system.
- 5) The team recommends that the Clerk work closely with the vendor during the needs assessment and planning stages of project implementation to ensure that Boulder County's specific needs are met.

- 6) A post-election audit (which the team recognizes is different from a recount) of the E-Slate system, while cumbersome, is possible. In addition to existing statutory audit requirements, the team recommends that the Clerk seek approval from the Secretary of State to perform such an audit. The intent of this audit is to provide the public with reasonable assurance that the votes cast on the system were counted accurately.
- 7) The team recommends that the Clerk continue to monitor issues and reports involving use of the Hart system nationwide.
- 8) The standard warranty as proposed by Hart InterCivic appears to satisfy the needs of the County for the rental of the equipment. The extended warranty in the Proposal does not seem to be relevant to the scope of this RFP and the team does not recommend paying for such a warranty.