

Dear Honorable Supervisors,

cc: Election Commissioners, Director Arntz

I was disturbed to read a memorandum sent to you on February 20 by Director Arntz concerning "Open Source Language". You can find it http://www.ci.sf.ca.us/site/uploadedfiles/election/Elections_Pages/20070220.pdf. This concerns the issue of the request by Director Arntz to spend 12.6 million dollars for new Sequoia voting systems and service.

The memorandum makes several statements that are incorrect.

1) The memorandum says that I proposed "alternative language" to the contract language amendment proposed by the Open Voting Consortium (OVC). That is incorrect. I did not propose alternative language, I suggested draft language to supplement the OVC language because it does not go far enough. It does not require verification that the code in the machines comes from the disclosed source code.

The draft language that I suggested reads as follows:

"San Francisco and the vendor shall work to establish procedures to verify that the code in the all the voting systems comes from the source code, where and when this is technically feasible. This will be a high priority for both parties."

The use of the definitive article "the" in the phrase "the source code" refers to source code mentioned elsewhere, in this case the OVC language. This is not the stand-alone language of an alternative but a supplement to the OVC language which discusses disclosure and source code. Any other interpretation is incorrect.

2) The memorandum claims or implies incorrectly in three places that I represent an organization called "Count As Cast". There is no organization called Count As Cast, nor Counted As Cast. I have never claimed that there was one, nor am I planning one. [Www.CountedAsCast.com](http://www.CountedAsCast.com) is simply an informational website, of which I am the author.

3) Much of the memorandum incorrectly refers to open source code, and indeed, links to a definition of open source in Wikipedia. The OVC language, however speaks of technology disclosure, not open source code. The distinction is important, because under disclosure, the vendor would retain its rights to the intellectual property contained therein, including the exclusive right to sell licenses to the code.

4) The memorandum states that "A member of the public would be able to use this information build Sequoia's complete voting system and copy the software and run the hardware." (pg. 2). The paragraph continues on to incorrectly imply that others, including OVC, could use that information to compete with Sequoia. However

- (a) the very sentence in the OVC proposed language that mentions being able to "recreate" the Sequoia system (pg. 4), indicates that that would be "for testing purposes". I believe that OVC would agree to a modification of that sentence to make it more clear that recreation of the Sequoia system would be for testing purposes only.
- (b) as stated above in item (3), the vendor would retain its patents and copyrights. So for anybody to attempt to sell copies of the Sequoia system would be illegal.
- (c) it would make very little business sense for anybody to try to sell copies of the Sequoia

system since a more modern, fully open source system from Open Voting Solutions already exists and is available for resale for free using less expensive, standard hardware.

5) Including the firmware and hardware specifications in the disclosure package is logical, since the point of the OVC proposal is to let the public know how the machines are counting their votes. It does not gain much to disclose the software code, without also disclosing the firmware code and the hardware design, since they control when and how the software is used. The importance of this has become clear with the disclosure of how the Diebold hardware works, and how easily it can be hacked. Anything less than full disclosure of the entire package leaves wide open the very real possibility that the undisclosed part of the package is miscounting votes.

I would like to request meetings with the supervisors directly concerned with the voting machine issue to explain how I see it developing, and to make sure that I am not misinterpreted by others.

Thank you for your time and consideration.

Nobody, and no machine, should be counting American votes in secret.

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