



Ruth Johnson
Oakland County Clerk/Register of Deeds
www.oakgov.com/clerkrod

May 5, 2006

Terri Lynn Land
Secretary of State
Michigan Department of State
430 W. Allegan
Richard Austin Building, Fourth Floor
Lansing, MI 48918

Dear Secretary Land,

For months, Oakland County has tried unsuccessfully to remedy ongoing problems with the new election equipment and service provided by Election Systems & Software, but to no avail. Our May 2 election revealed critical quality issues with the machines and exposed ES & S' complete lack of inclination and ability to provide timely and efficient service. (Please see attached letters to Aldo Tesi, CEO, ES & S.)

With no alternative, I would like to make a formal complaint against ES & S. and ask that you investigate these problems. When Oakland County clerks voted on which system to select, they opted for ES & S as the best of three choices, as did 50 percent of the communities in America. It appears ES & S is now totally overwhelmed by the demand for the new voting machines.

Even before the May election, we were working with local clerks who voiced concerns about the M100 machines, which were jamming during tests, requiring clerks to open the locked ballot boxes to "pat down" ballots.

Today, three days after the May 2 Election Day, it is clear that quality issues go much deeper than we even anticipated. Some of our local clerks, who are so conscientious and dedicated, have lost faith in the ability of machines to perform. One clerk had to have repairs performed on 22 – more than 60 percent – of her 36 M100 machines. Two days before her election, two of her machines that had tested fine suddenly lost their LED screens. "We were holding our breath on Election Day," she said. (Please see attached letter from Janet Roncelli.)

Below is just a partial list of problems reported by local clerks:

I. Service

1. ES & S was weeks late in completing ballot coding for our M100 machines. Clerks were forced to send out thousands of untested absentee ballots. We have no confidence ES & S has the ability to fulfill contractual obligations to code our August and November elections. We have asked ES & S for a refund of those funds to secure service that is more reliable.

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2. The city of Troy, with 50,000 voters, did not have correct ballot coding for the May 2 election until April 27 – just three business days prior to the election.
3. At the county level, ES & S promised to install election equipment in our election reporting room. The equipment was delivered in February. ES & S originally agreed to install the equipment April 18, but postponed installation until May 8. At 4:00 p.m. today, they called and rescheduled to May 16.
4. At an April 4 meeting with ES & S representatives, they said they would work with us to obtain six high-speed counters needed in larger communities. ES & S has given us no word since about the counters.
5. Local clerks report that numerous calls and messages about problems with the machines have simply gone unanswered.
6. ES & S did have technicians available, but in one community, he told the clerk with a printer problem that he was sorry, but his expertise was software. “He had no backup tabulators, and he came with no supplies, no test PDC card, no test ballots, no keys and no tools,” said one clerk. That community was forced to replace two of their machines with spares.
7. ES & S originally sent out unacceptable ballot proofs filled with numerous errors, including missing candidates, jurisdictions and precincts.
8. We requested code directories so our clerks could interpret error codes on the machines. Those have not been sent.

II. Software

1. ES & S handled all of the coding for Oakland County but was very late in supplying accurate coding to the local communities. Troy, as we noted, received correct coding just three business days before the election. ES & S sent the city an unbelievable 11 different versions until problems were corrected.
2. Local clerks cited numerous coding problems. Coding was incorrect in a number of communities, including Bloomfield Hills, Southfield and Farmington Hills.,
3. PCMCIA cards, in some cases, were broken, corrupted or simply failed to function.

III. Hardware

1. Ballots, because of a manufacturing defect in the ballot box that left a gap between bins, ended up in the wrong holding area.
2. Machines accepted multiple ballots.
3. Machines malfunctioned both during testing prior to the election and during the election itself. One clerk was forced to replace four machines after they failed during testing.
4. Error codes ranged from “No AC” (even though the unit was plugged in) to “Printer Timeout,” to “No diverter found” forcing clerks to have the machines replaced or repaired.
5. Some M100s were unable to read the PCMCIA cards.
6. LED screens failed on machines throughout the county. Some failed completely; others had jumbled letters and numbers. Clerks were forced to replace those with spare machines.
7. The limited size of the ballot container on the new box. Absentee ballots tend to “tent” filling up the box and causing jams. It requires that election workers unlock the boxes to reach in and pat down ballots.

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8. ES & S' only solution to jamming was to have election workers "back-fold" every AV ballot. Our larger communities would have to hire additional workers to perform this function. Farmington Hills, for example, has 5,000 absentee voter ballots go out every election.
9. Even the wheels are poorly made, making the machines nearly impossible to maneuver.
10. Print out styles varied between machines, some with different fonts and different sized fonts.
11. Machines were delivered with dents, broken memory card access panels and ballot doors that would not lock. One machine sold to a community as "new" was rusty and had ballots inside and was clearly a refurbished "used" machine.
12. Some "Jackson lids" malfunctioned and in some cases, simply popped off the machines.
13. We are concerned that the warranties on these machines will expire before repairs can be made.

Secretary Land, Oakland County would not accept this behavior or these product failings from any other vendor. We are not alone, according to published reports. Indiana has been forced to take legal action against ES & S, which may be the only remedy here. West Virginia has experienced the same kind of problems seen in Oakland County. I will be asking our representatives in Congress to force ES & S to halt production on the machines until quality can be assured.

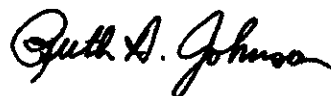
In the meantime, ES & S continues to issue empty assurances. I believe there have been times when ES & S has been less than forthright. They continue to point the finger at local clerks and election workers and say the problems are "user issues."

While the situation was not as critical in the May election, some of these problems could be insurmountable for clerks in the larger August and November elections. If spare tabulators are not available, for example, there may not be enough working machines for voters. Our \$5 million Help America Vote Act grant has left us with what appear to be substandard machines and a declining confidence in their ability to perform.

At this point, I believe every machine in Oakland County should be replaced, at ES & S' expense, by new M100 machines that have undergone rigid quality control testing. I would also suggest that payment to ES & S be withheld until they meet acceptable performance standards and that warranties be extended.

Please contact me at your earliest convenience at (248) 858-0560.

Respectfully,



Ruth Johnson
Oakland County Clerk/Register of Deeds

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cc: Chris Thomas