



Pierce County, Washington  
Senate Bill 6453  
Statement of Work  
June 15, 2004

1. Introduction and Overview

The general purpose of this Statement of Work (SOW) between Election Systems & Software, Inc. (ES&S) and Pierce County Washington is to address the firmware changes for Pierce County. ES&S intends to implement these changes for the Primary Election in Pierce County on September 14, 2004, in order for Pierce County to utilize a consolidated ballot.

1.1. Background

The "Qualifying Primary Act" (SB 6453) was signed by Governor Locke on April 1<sup>st</sup>, 2004. Section 126 of the new legislation requires partisan primaries conducted in the State of Washington to use a consolidated ballot or a separate ballot format. The consolidated ballot will contain a party preference contest that allows the voter to choose a party affiliation from a list of major political parties. The new law states that the voter must select their party of choice within a party preference contest on the ballot for it to be valid. Under this legislation, any ballot without a mark in the party contest is considered void. The new law, however, does not affect the nonpartisan contests. Non-partisan contests are still considered valid no matter how the rest of the ballot is affected based on the consolidated ballot format and these contests must be programmed to be tabulated. ES&S will make firmware changes to the Optech IV-C and the Optech III P Eagle (Eagle) tabulation devices for Pierce County Washington to meet the above changes in legislation.

The changes will be in full compliance with Washington State's new primary law. The laws, which govern Washington State's Primary, are contained in Engrossed Senate Bill 6453 as vetoed by the Governor. ES&S shall ensure that the new firmware product delivered to Pierce County shall be in full compliance with this new law, as well as all existing Washington State Election laws.

## 1.2. Scope of Work

Changes shall be made to existing ES&S firmware products in Pierce County, Washington to meet requirements of the new legislation. The following specifications and methodologies identify the changes:

- 1.2.1. Affected tabulation devices and related firmware: Eagle, Optech IV-C
- 1.2.2. For all tabulation devices, the party preference contest related to an open primary ballot shall be changed in a manner such that anytime the party preference contest is left blank or overvoted, the ballot is returned to the voter with a message of "No Valid Party Selection."

### 1.2.3. Logic Precinct Tabulator: Eagle

- 1.2.3.1. Party Preference (PP) marked valid (single vote): This feature counts partisan contests just as an open primary ballot, ignoring any marks in any party other than the PP marked. Crossover votes will be ignored as usual.
- 1.2.3.2. PP overvoted: The ballot will be returned to the voter. The machine will display message "No Valid Party Selection." The machine will provide the option to override or accept the vote, and will treat the ballot as a crossover vote - not counting partisan contests but tabulating non-partisan contests.
- 1.2.3.3. PP Blank: Returns the ballot to the voter. The machine will display message "No Valid Party Selection." The machine will provide the option to override or accept the vote, and will treat the ballot as a crossover vote - not counting partisan contests but tabulating non-partisan contests.

Note: The SOS office of Elections requires ES&S and counties to code the election so that the voter is notified of an error in the PP contest. The voter will be queried to override this response and have the non-partisan contests counted.

### 1.2.4. Logic Central tabulators: IV-C

- 1.2.4.1. PP marked valid (single vote): Machine will count partisan contests as an open primary ballot, ignoring any marks in any party other than the PP marked. Crossover votes will be ignored as usual.
- 1.2.4.2. PP overvoted: SORT. Machine will display message "No Valid Party Selection." The machine will provide the option to override or accept the vote, and will treat the ballot as a crossover vote - not counting partisan contests but tabulating non-partisan contests.
- 1.2.4.3. PP BLANK: SORT. Machine will display message "No Valid Party Selection." The machine will provide the option to override or accept the vote, and treat the ballot as a crossover vote - not counting partisan contests but tabulating non-partisan contests.

Note: The County needs to set the sort options on the scanner as always. This code will not sort automatically or stop on an overvoted or undervoted PP contest. The out staking (sort options) will work in the same manner as before. The sort options do not sort individual contests as blank, i.e. no undervotes sorting, the entire ballot would need to be blank. However, since the PP contest takes precedence, even if the entire ballot is blank (including the PP contest), you will receive a message on this ballot that "No Valid Party Selection" has been made, not the blank ballot message as normally would be expected.

1.2.5. Limitations/Functional Stipulations:

1.2.5.1. The changes made to the tabulation units should not require any changes to the Unity, EMS, or AERO software used in Washington State.

1.2.5.2. Changes are limited to the machine's tabulation capabilities only.

1.2.5.3. These changes will be considered a "one-off" version of the currently certified code, for use only in the State of Washington. The changes will be made to the currently certified code for the State of Washington. A "one-off" is a development term used to describe a "special" version of code that is used for a specific purpose, and not within the baseline code. Given the short amount of time to develop and test, the changes are being hard-coded into the firmware, and cannot be used in other states. I.e., the PP contest in Montana, actually works the opposite way as used in Washington, and we do not have time to change the code that would make the PP contest an option to work either way. The "one-off" code will work one way in Washington and the baseline code will work another way in Montana.

1.2.5.4. Firmware for Eagle and Optech IV-C

1.2.5.4.1. These changes will not be ITA reviewed or tested against the FEC Standards. Testing is limited to internal ES&S testing, and certification testing with the customer on-site in Washington State. ES&S will take all necessary steps to include changes to support the Washington primary logic in a nationally certified and state certified version of code. ES&S cannot commit at this time to a date of certification due to the many variables that are out of our control with respect to the ITA, NASED, EAC, and NIST transitioning of responsibilities. We believe that July 1, 2005 is reasonable and will continue to work towards it, with no guarantee.

1.2.5.4.2. This is a one-time change to the currently certified versions of code for the Eagle and IV-C. These versions will be re-written to conform to the new 2002 FEC certification guidelines over the course of the next eight to twelve months. Since these changes will be incorporated into revised code to comply with the 2002 standards, the code will change from what will be used in the September primary of 2004. This simply means that the "one-off"

version will not be the identical version that is ultimately certified by FEC and the State of Washington. The functionality of the change will continue forward with the new 2002 FEC certified version to allow the State of Washington to continue tabulating their primary elections in accordance with the Washington State Election laws.

- 1.2.5.4.3. ES&S will not be liable for rewriting this specific firmware version of code to meet 2002 FEC standards, but reserves the right to enhance the code with improvements recommended by Optech clients at our discretion to bring to market a new code base that meets and exceeds the currently certified code base. This simply means that the "one-off" version will not be the identical version that is ultimately certified by FEC and the State of Washington. The functionality of the change will continue forward with the new 2002 FEC certified version to allow the State of Washington to continue tabulating their primary elections in accordance with the Washington State Election laws.
- 1.2.5.4.4. ES&S will undertake the enhancements and exercise commercially reasonable efforts to meet the timelines of this change, but will not be responsible if the certification board of Washington State determines that there is an anomaly that is not certifiable. ES&S will not be held liable for expenses incurred due to a non-certification outcome of this change. Due to unforeseen defects that have a possibility of showing up with rapid development and limited testing. ES&S will test as thoroughly as possible, but if some unknown defect is found during state testing, and the state decides not to certify the change because of it, ES&S should not be held liable for costs incurred from the use of a consolidated ballot. ES&S fully intends to be successful with the changes.

### 1.3. Objectives

- 1.3.1. The sole objective of the changes to the existing ES&S software and firmware products in Pierce County, Washington is to allow the County to conduct a successful primary election September 14, 2004 and all future partisan primaries and is intended to meet the "Qualifying Primary Act" as enacted.

### 1.4. Reference:

- 1.4.1. Engrossed Senate Bill 6453, Chapter 271, Laws of 2004,  
[www.leg.wa.gov/pub/billinfo/2003-04/Senate/6450-6474/6453\\_sl\\_04082004.txt](http://www.leg.wa.gov/pub/billinfo/2003-04/Senate/6450-6474/6453_sl_04082004.txt)

### 1.5. Deliverables

- 1.5.1. Firmware upgrades for the existing Optech IV-C and Eagle tabulation devices used to meet the "Qualifying Primary Act" for the State of Washington for Pierce County shall be:
  - 1.5.1.1. Fully tested
  - 1.5.1.2. State Certified
  - 1.5.1.3. Installed
  - 1.5.1.4. Acceptance Tested

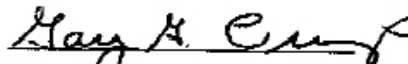
### 1.6. Progress

- 1.6.1. Weekly status reports from ES&S to Pierce County, WA and any additional information as determined to be necessary will be agreed upon and provided.

#### Authorized Signatures:



Pat McCarthy  
Pierce County Auditor  
Pierce County, WA



Gary G. Crump  
Chief Operations Officer  
Election Systems & Software, Inc