

EXHIBIT C



DIRECTIVE NO. 2004-58
December 7, 2004

ALL COUNTY BOARDS OF ELECTIONS

TO: Members, Directors & Deputy Directors

RECOUNT for the PRESIDENTIAL ELECTION ONLY
November 2, 2004 General Election

Not later than the fifth day after the Secretary of State certifies the official count of a presidential election, any joint presidential candidates eligible to apply for a recount must file a written application with the board of elections in each county in which the candidates want votes recounted, and tender with the application cash, a bank money order, bank cashier's check, or certified check deposit in the amount of \$10 per precinct to be recounted. Additionally, each application for recount must separately list each precinct for which a recount of the votes is requested.

I certified the results of the presidential election on December 6, 2004. Because the fifth day thereafter falls on Saturday, December 11, all applications must be filed no later than December 13, 2004, in accordance with the provisions of R.C. 1.14.

Pursuant to R.C. 3515.03, **the board of elections shall promptly fix the time, method and place** for the recount, which shall be commenced five to ten days after the day upon which such application is filed.

The director of the board shall mail notice of the time and place of the recount to any applicant and to each person for whom votes were cast for such election. Such notice must be mailed by certified mail not later than the fifth day before the day fixed for the commencement of the recount.

Persons entitled to have such notice mailed to them may waive their right to have it mailed by filing with the director a written waiver to that effect. Each person entitled to receive such notice may attend and witness the recount and any person whom the candidate designates may attend and witness the recount.

Please notify my office in writing of any recounts of the presidential election. After completing the recount in accordance with R.C.3515, please forward the amended certification form and abstract (if applicable) to my office as soon as possible.

If you have any questions regarding the official reports or abstracts, please telephone Director of Elections Pat Wolfe at (614) 466-2585.

A conference call will be held tomorrow, Wednesday, December 8 at 9:00 a.m. to discuss this directive and any questions you may have concerning the recount procedures. Please send any questions to Faith Lyon at flyon@sos.state.oh.us by 4 p.m. today.

Sincerely,

J. Kenneth Blackwell

OUTLINE OF RECOUNT PROCEDURES

(Revised Code sections 3515.01-3515.07)

A. ELIGIBILITY

1. Automatic Recount

- a) A recount is required in any district, county, municipal or township election if the number of votes cast for the declared winning candidate (or winning side on an issue) does not exceed the number of votes cast for the defeated candidate (or issue) by a margin of one-half of one percent or less of the total vote. The board of elections orders the recount for county, municipal, township and school district elections. The Secretary of State orders the recount for all other elections.
- b) In a statewide election a recount is required if the margin of votes is one-fourth of one percent or less.

2. Requested Recount

- a) Any candidate who was not declared elected may request, in writing, a recount of the votes cast in any precinct for all candidates for the particular office. Such request is necessary only in races in which the margin of votes was more than one-half of one percent.
- b) Any group of five or more qualified electors who declare that they voted “for” an issue that was defeated, or “against” an issue that passed may request a recount. One member of the group must be designated as chairperson of the group.

B. DETERMINING ONE-HALF OF ONE PERCENT

1. One To Be Elected

Where there are two or more candidates for a single office, such as mayor, the votes for all candidates in that race are added to obtain the total vote. For example:

Candidate A	2,845 votes	(declared elected)
Candidate B	2,815 votes	(defeated)
Candidate C	2,795 votes	(defeated)

The total vote for the office is 8,455. Of that total, $\frac{1}{2}$ of 1% is 42 votes. Candidate A defeated Candidate B by 30 votes, which is less than $\frac{1}{2}$ of 1%. Candidate A defeated Candidate C by 51 votes, which exceeds $\frac{1}{2}$ of 1% of the total vote cast for the office of mayor. However, because one of the defeated candidates was within the margin, the entire race is automatically recounted.

2. Several To be Elected

The “declared winning candidate” refers to the candidate whose election is disputed, rather than to all of the candidates declared elected. Thus, if five candidates seek election as council members-at-large, with three to be elected, only the vote’s cast for Candidates 3, 4, and 5 are regarded as the total number of votes cast for the third council seat in computing the margin for an automatic recount. For example:

Candidate 1	4,200 votes	(elected)
Candidate 2	4,100 votes	(elected)
Candidate 3	2,300 votes	(declared elected)
Candidate 4	2,275 votes	(declared defeated)
Candidate 5	2,250 votes	(defeated)

Do not include the votes cast for Candidates 1 and 2 in computing the “total vote” cast for the third council seat. The votes cast for Candidates 3, 4, and 5 total 6,825. Of that total, $\frac{1}{2}$ of 1% is 34 votes. Candidate 3 defeated Candidate 4 by 25 votes, which is less than $\frac{1}{2}$ of 1%. Candidate 3 defeated Candidate 5 by 50 votes, which exceeds $\frac{1}{2}$ of 1% of the “total vote” cast for the third council seat. An automatic recount must be ordered on the basis of the margin of votes cast for Candidates 3 and 4. Only the votes for Candidates 3, 4, and 5 are recounted, not all five candidates.

C. APPLICATION

1. Written Application for a Requested Recount

A written application for a requested recount must be filed within 5 days after the certification of the official count with the county board of elections for elections within the county, with the board of elections of the most populous county in multi-county district elections, or with the Secretary of State for recount of a statewide race or issue.

2. Deposit

- a) The applicant(s) must file a deposit equal to ten dollars (\$10) for each precinct to be recounted.
- b) The deposit is to cover the cost of the recount, any unused balance is refundable to the applicant if all precincts are not counted.

D. BEFORE THE RECOUNT

1. Establish Time of the Recount

No recount may be held prior to the official canvass and certification. The board must fix the time, method and place of the recount. A recount must be held within 10 days after the declaration of official results or 10 days after an application is filed.

2. Notice To Candidates

The director must notify all candidates or issue chairpersons in the race of the time and place by certified mail not later than five days before an automatic or requested recount is held.

3. Witnesses

- a) Each candidate or issue chairperson in the race is entitled to one witness for each counting team or tabulating unit.
- b) A witness may observe, but not interfere with the recount nor touch the ballots.
- c) Appointments of witnesses must be in writing signed by the candidate or issue chairperson.

E. STOPPING A RECOUNT

1. At anytime after a recount is ordered but before the recount is held, the declared losing candidate or issue chairperson may file a written request to stop the recount. If more than one losing candidate is entitled to the recount, each of the candidates must file such written request. The board must grant the request.
2. At any time during a recount, the declared losing candidate or candidates or issue chairperson may file a written request to stop the recount. If the board finds that results of the recount at that point will not change the official results, the recount is stopped. If the board finds otherwise, the request to stop recounting must be denied and the recount continued until all ballots from the precincts involved have been counted.

F. RECOUNT PROCEDURES

1. All Voting Systems

- a) The recount must be conducted by teams having equal numbers of Democrats and Republicans.
- b) Total votes cast must be compared to the number of voters listed in the pollbook, poll list, or signature pollbook records. In the presence of at least two election officials of different political parties, the records must be available for visual inspection by witnesses. The witnesses shall not be permitted to handle the records.
- c) Absentee ballot envelopes returned after the polls closed may be viewed by the witnesses. The observer may *not* see the actual ballots, only the ballot envelopes, which must still be sealed.

- d) Disputed ballots may be settled as they arise by the board or by a majority of the employees designated as teams, if so delegated by the board.
- e) Ballots must be handled only by members of the board, director, deputy director or other designated employees of the board.
- f) Votes cast for write-in candidates must be checked to determine if the candidate is a qualified write-in candidate and for an overvoted ballot.
- g) Witnesses may observe the inspection of the ballots.

2. Paper Ballots

- a) Count as on election night, or
- b) Sort the ballots using the stack method, then count each stack. The stack method means sorting by candidate, yes or no vote, for or against vote, and overvote or no vote.

3. Voting Machines (including those with printer-packs)

- a) Check the public and protective counters to verify that the numbers correspond with the poll book records.
- b) Check the candidate counters and rotation to verify that they match the proper candidate, question or issue.
- c) Record the votes cast.

4. Punchcards

Test the Program

- a) Prepare a new test deck of ballot cards that are punched and then manually count them. This deck must not be the same test deck used for the official count.
- b) Process the test deck through the computer to verify that the computer count matches the hand count.
- c) If the hand count and the computer count do *not* match, but the hand count is accurate, all ballots must be manually counted.

The Recount

- a) Ballot cards must be inspected for hanging chad attached by one or two corners, mutilations, and other invalidities. If a chad is attached by three or four corners, a vote shall not be counted for that particular candidate, question or issue.
- b) Overvotes and blank ballots may be separated from the stack at this time and placed at the top of the stack after the header cards.
- c) Ballot page assemblies and rotation header cards must be checked for each precinct for candidate positions to verify that each candidate, question, or issue has been properly identified.
- d) The board must randomly select whole precincts whose total equals at least 3% of the total vote. These precincts' ballots must be manually counted.
- e) Run the manually counted precincts through the computer.
- f) If the computer count does not match the hand count, and after rechecking the manual count the results are still *not* equal, *all ballots must be hand counted*. If the results of the computer count and the hand counted ballots are equal, the remainder of the ballots may be processed through the computer and results tabulated electronically.
- g) At the conclusion of the recount, the program must be retested using the pre-audited test deck.

5. Optical Scan

Test the Program

- a) Prepare a test stack of ballots that are pre-marked and then manually count them.
- b) Process the test stack through the tabulator to verify that the tabulator total matches the hand count.

The Recount

- a) If the hand count and the computer count do not match, but the hand count is accurate, all the ballots must be manually counted.
- b) Ballots must be inspected for mutilations and other invalidities.
- c) Ballots must be checked for proper candidate position and to verify each candidate, question, or issue has been properly identified.
- d) The board must randomly select whole precincts whose total equals at least 3% of the total vote and must manually count those precincts' ballots.

- e) Run the manually counted precincts through the tabulator.
- f) If the tabulator count does not match the hand count, and after rechecking the manual count the results are still *not* equal, *all ballots must be hand counted*. If the results of the tabulator count and the hand counted ballots are equal, the remainder of the ballots may be processed through the tabulator.
- g) At the conclusion of the recount, the program must be retested using the pre-audited test stack of ballots.

6. Direct Record Electronics (DRE)

Test the Program

- a) Prepare a test cartridge.
- b) Process the cartridge through the computer.
- c) Verify that the cartridge results match the pre-determined votes cast for candidates, issue and questions.
- d) If the totals do not match, check programming and rerun the test program until the totals match.

The Recount

- a) Check the public counters and protective counters to verify that the numbers on those counters correspond to verify that the numbers on those counters correspond with the pollbook, poll list, or signature pollbook records.
- b) Check the rotation on those machines to verify that they match the proper candidates, questions, or issues.
- c) Process cartridges through the tabulator. If the totals are different than the totals of the official count, compare cartridge totals against paper audit trail report.
- d) At the conclusion of the recount, the program must be retested using the pre-audited cartridge.

The procedures described in this outline are the basic requirements for conducting a recount. If the board of elections feels the results warrant further investigation at any period during the conduct of the recount, it may institute more rigorous recounting procedures, such as hand counting a larger percentage of precincts, using programming options which total overvotes and/or undervotes, hand counting all precincts, etc.

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